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H – 50

International Court of Justice

H0050 – 0001

H0050 - 0002

Official transcript of the International Military Tribunal, in the matter of: The United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics, against Hermann Wilhelm Goering, et al, Defendants, sitting at Nurnberg, Germany, on 1 February 1946, 1000-1245, Lord Justice Lawrence presiding.

MARSHAL OF THE COURT: May it please the Court, I desire to announce that defendants Kaltenbrunner and Seyss-Inquart will be absent from this morning's session on account of illness.

M. DUBOST: I have now completed my presentation of facts. This presentation consisted of a wide enumeration of crimes, atrocities, exactions of all sorts, which I deliberately presented to you without any auditory embellishment. Facts are deeply eloquent and are sufficient in themselves.

These facts are, so it seems to me, definitely established. I do not believe that the defense, or even history, even German history, will be able to set aside their essential aspects. They will no doubt be exposed to criticisms. Our evidence was history collected, in a country that is ruined, whose every means of communication had been destroyed by an enemy in flight, in a country where each individual has been more concerned with the preparation of the future than with looking back upon the past, even to exact vengeance, for the future is the life of our children, and the past is but filled with death and destruction. For all of France, for every country in the West, the demands of daily life, the difficulty in preparing better days, once again give its full meaning to the disillusioned statement of the scripture, "Simite mortuos sepellire mortues" ("Let the dead bury the dead"), and that is why in spite of all our efforts, of all our endeavor to prepare the work of justice which France and universal conscience are demanding, that is why we were not able to be more thorough, why errors of details possibly slipped into our work. But the rectification which time and the defense will affect shall be merely accessory. They will not eliminate the fact that millions of men have been deported, famished, exhausted through labor and privation before being put to death like worthless cattle; they will not

H0050 - 0003

eliminate the fact that countless innocent creatures have been tortured before being turned over to the executioner. Rectifications may reiterate certain circumstances of time, sometimes of place, -- they will not change anything in the essential aspect of the facts even if a few details are modified.

But these facts having been established in their general aspect we must still complete our task by giving them juridical significance, by analyzing them by references to the law of which they constitute a violation, and by making clear the implications, -- in other words, by fixing the responsibilities of each defendant in respect to the law.

What law shall we apply?

Taken one by one and separated from the systematic policy which conceived, willed, and ordered them as a means of achieving domination through terror, and beyond that as means of extermination pure and simple, these facts constitute a common law crime as much as a violation of the laws and usages of war and of International Law. All of them could therefore be quoted separately as a violation and of an international convention and of a penal prescription of one or the other of our positive internal laws. Even more, all could be called as constituting a violation of a rule of that common law which emerges from each of our own domestic laws as shown by M. de Menthon in his address; of that common law which in the last analysis was proposed by him as being the foundation, as the root of <u>international customs</u>, which beyond the Charter itself is and remains the one guide of your decisions.

But it is right to note that this common law, whic springs from our positive internal jurisprudence chiefly condemns material acts. Now, all of our defendants remained physically divorced from each of the criminal facts which in the ubiquity of their power they multiplied throughout the world. It was their will which commanded, but as Mr. Justice Jackson recalled they never did redden their own hands with the blood of their victims. Therefore, if we were to refer exclusively to our positive jurisprudence -- and specifically to French domestic law -- the defendants could not, in any case, be considered as principle authors, but merely as accomplices "who have provoked the act through abuse of authority or of power." All of that is indeed in contradiction with the idea which each man in our nations has of the guilt of the

H0050 - 0004

major war criminals.

To selve the problem thus would be singularly to narrow the field of responsibility of each of the defendants. This responsibility would appear as merely accessory, where it is, in fact, a principal responsibility; it would appear fragmentary, whereas to be truly determined it must be presented at one single time, and in its entirety, present in their minds, in their intent, and their acts as leaders of the Nazi government who conceived, willed, ordered or tolerated the unfolding of the systematic policy of terrorism and of extermination of which each fact, taken separately as but a single aspect; and is merely a constituting element. Thus a reference purely and simply to common law does not bring us close enough to reality. If it does not omit as such, any of the facts to which guilt attaches, it does leave aside the psychological factor and does not give us a complete conception of the guilt of the accused in a single formula embracing all of reality.

That is because common law expresses a certain status of common morality, which is accepted by civilized nations as the law for relationship among citizens. Profoundly imbued with the concept of individualism this common law is not adequate to meet the requirements of collective life which international morality must determine. That is because once more this common jurisprudence law which is the foundation of our tradition, has been held static in a cartesian sense, whereas your custom remains enriched by all the dynamism of international penal law.

The Charter did not fix the manner in which we are to qualify in a juridical sense the facts which I have presented before you. In creating your tribunal the authors of the Charter limited themselves with establishing the limits of jurisdiction: war crimes, crimes against humanity, crimes against peace; and even then they did not give an exhaustive definition of each of these crimes. Will the Tribunal refer on this point to Article 6, paragraphs B and C of the Charter of the Tribunal. This article merely gives an indicative enumeration. That is because the authoris of the Charter remember that penal international law is still only in the first phase in the birth of a custom, in which law is developed by reaction to fact, and where the judge appears only to save the criminals from individual vengeance, or where law is spoken

H0050 - 0005

only by the judge and the penalty rests only on the conscience of the judge. Thus, the authors of the Charter did abstain from defining for us a fixed mode for qualifications, but reference to common law or on the contrary a custom. They did not say to you:

"You will take the criminal facts submitted to you one by one, and each fact taken separately will be isolated from the other facts, to be defined by reference to a stipulation of any one domestic jurisprudence or to a synthesis of internal law, yielding thus a common jurisprudence."

Nor did they say to you:

"You will take these scattered criminal facts, you will group them together to make of them one single crime, the definition of which, by a broad respective of the rules of common law, will be essentially determined by the single intention or purpose sought, without attempting to seek by anology any

precedents in the different domestic laws which apply moreover, to an entirely different subject:

The authors of the Charter have left you free, entirely free within the limits of custom and by way of consequence we ourselves have been left free, within the same limitations, we have been left free to propose to you such definition or qualification which may appear to you the most practical, which may appear to you to come closest to the changing reality of facts in their relation with general principles of law and the broad rules of morality which may seem to us to be such as to meet best the demands of human conscience expressed by international public opinion duly enlightened on Hiterlian atrocities and which will in fact remain within the limits of international penal customs. This custom is indeed still in a formulative stage, but if this trial is without precedent, the problems that are being examined in this court have already been posed before the jurists who preceded us have already given them solutions. These solutions constitute precedents, and as such they constitute the first elements of your custom. In his menorandum to the commission on the responsibility of the authors of the war and on sanctions (Peace Conference of 1919-20) Mr. Larnaude, French jurist, spoke as follows:

"Criminal law could not foresee that through a singular defiance of the essential laws of humanity, of civilization, of honor, an army could systematically in consequence of the very instructions of its sovereign yield itself to perpetrate the actions through which the enemy did not hesitate to seek victory without success. Never before then has internal criminal law been able to prepare provisions which would permit the refreshing of such acts. And still one must, in the interpretation of every law, cling to the intention of the law maker...if in a few specific cases particularly auspicious one might succeed in seizing individuals bearing responsibility and of whom the Emperor could, by extention be considered as an coemplice, one would only suceed, and not without difficulty to narrow the responsibility which he bears by limiting such responsibility to a few precise cases..it is a very

H0050 – 0006

H0050 - 0007

restrictive approach to the problem of William II; it is equivalent to diminishing it and bring it to the proportions of a criminal case or a court-martial case . . . the higher justice which an anxious world awaits would not thus be satisfied. Thus, if the German Emperor were judged only as an accomplice or even as co-author of a common law crime, his actions as Chief of State must be considered in conformity with their true juridical character . . ."

But except for minor details all of this is indeed implicitly contained in the last paragraph of Article 6 of the Tribunal:

"Leaders, organizers, instigators, and accomplices participating in the formulation or execution of a common plan or conspiracy to commit any of the foregoing crimes are responsible for all acts performed by any persons in execution of such plan." That is, crimes against peace, crimes of war, crimes against humanity.

Fundamentally all this is juridically in conformity with the basic German concept of the "Fuehrertum," which places responsibility on the leaders and on those who are at the beginning with the leaders, at their very source of impulses.

Thus we can, by coming as close as possible to reality, by applying the Charter of 8 August and Article 6 of the Charter of your Tribunal, by respecting the rules of common law defined by the Chief of our delegation, M. de Menthon and by following the custom, the international custom, which is now beginning to develop in the field of international penal law, to require of your Tribunal to declare allthe defendants guilty of having in their role as principle Hitlerian leaders of the German people, conceived, willed, ordered or merely tolerated by their silence that assassinations or other inhuman acts should be systematically committed, that violent treatment should be systematically imposed on Prisoners of War or on civilians, that devastations without justification should be systematically committed as a deliberate instrument for the accomplishment of their purpose of dominating Europe and the world through terrorism and of exterminating entire populatio in order to extend the living-space of the German people.

H0050 - 0008

More specifically, we ask you to find Goering, Keitel and Jodl guilty of having taken part in the execution of this design by ordering the seizure and the execution of hostages, in violation of Article 50 of the Convention of the Hague which prohibits collective sanctions and reprisals.

We ask you to find Keitel, Jodl, Kaltenbrunner, Seyss-Inquart, Bormann and Ribbentrop guilty of having taken part in the execution of this plan.

First, by ordering the terroristic assassination of innocent civilians.

Second, by ordering the execution without trial and the torture until death followed of members of the resistance.

And thirdly, by ordering devastations without justifications.

To find Goering, Keitel, Jodl, Speer andSauckel guilty of having taken part in the execution of this plan by exposing the health and the lives of Prisoners of War notably by submitting them to privations and hard treatments by exposing them or by attempting to expose them to bombings or other risks of war.

To find Goering, Keitel, Jodl, Kaltenbrunner and Bormann guilty of havin taken part in the execution of this plan, by ordering personally or by provoking the formulation of orders which tendered to achieve the terroristic assassinations or the lynching by the population of certain combatants, more specifically of airmen and members of Commando groups as well as the terroristic assassination or the slow extermination of certain categories of Prisoners of War.

To find Keitel guilty of having taken part in the execution of this plar by prescribing the deportation of innocent civilians and by applying to some of them the "N.N." regime which designated them to extermination.

To find Jodl guilty of having taken part in the execution of this plan by ordering the arrest with the view of deportation of the Jews in Denmark.

To find Frank, Rosenberg, Streicher, Von Schirach, Sauckel, Frick and Hess guilty of having taken part in the execution of this plan, by justifying the extermination of the Jews or by establishing a statute to be applied to them with a view to their extermination.

To find Goering guilty of having taken part in the execution of this pl.

H0050 - 0009

First, by creating concentration camps and by placing them under the control of the State Police.

Second, for the purpose of ridding National Socialism of any opposition by tolerating and approving fatal physiological experiments on the effect of cold, increasing or decreasing pressure, which experiments were conducted by Professor Rascher with material provided by the Luftwaffe and controlled by Prof. Rascher, in the concentration camp of Dachau on deportees who were involuntary subjects for the said experiments, and as a chief he associated himself with these experiments.

Third, by utilizing in large numbers internees for exhausting labor under inhuman conditions in the armament factories of the Luftwaffe.

To find Speer guilty of having taken part in the execution of this plan by employing in large numbers the internees for exhausting labor under inhuman conditions in the armament factories.

To find Bormann guilty of having taken part in the execution of this plan by participating in the extermination of internees in concentration camps.

With regard to Doenitz, Raeder, von Papen, Neurath, Fritsche and Schacht, we associate ourselves with the conclusions of our British and American colleagues.

And in connection with the acts above defined, we ask you to further, in accordance with the stipulation of Article 9 of the Charter of your Tribunal, to find the OKW and the OKH guilty of the execution of this plan by having ordered and participated in the deportation of innocent civilians from the occupied countries in the West.

H0050 - 0010

To find the OKW, the OKH and the OKL guilty of the execution of this plan by participating in the formation of the doctrine of hostages as a terroristic means and by prescribing the seizure and execution of hostages in the countries of the West, by bringing to a degrading level the material conditions of living of Prisoners of War, by depriving the latter of the guarantees granted them by international custom and by positive international law, by ordering or by tolerating the employment of Prisoners of War in dangerous labor or in labor directly connected with military operations. By ordering the execution of escaped prisoners or prisoners attempting to escape and the execution of numerous groups of commandos, by giving the SS and SD directives for the extermination of airmen.

To find the OKL guilty of having participated in the execution of this plan.

First, by employing in large numbers internees in concentration camps for exhaustive labor under inhuman conditions in the armament factories of the Luftwaffe.

Second, by participating in fatal physiological experiments on the effect of cold, increasing or decreasing pressure, which experiments were carried out for the benefit of the Luftwaffe and conducted by Dr. Rascher, a doctor of the Luftwaffe, who was attached to the concentration camp at Dachau.

To find the SS and the SD guilty of the execution of this plan by having deported and participated in the deportation of innocent civilians from the occupied countries in the West and by having tortured them and exterminated them by every means in concentration camps.

To find the SS, the SD, and the Gestapo guilty of the execution of this plan by having given direct orders for the execution or the deportation with a view to their slow extermination; of members of commando groups, airmen, escaped prisoners; those who refused to accept forced labor, or those who were rebellious against the Nazi order; by forbidding any repression of acts of lynching committed by the German population on airmen brought down.

To find the SS, the SD and the Gestapo guilty of having tortured and of having executed without trial members of the resistance.

H0050 - 0011

To find the same organizations, and, in addition, the OKW and the OKH, in collusion with the SS, the SD, and the Gestapo, guilty of having committed or ordered massacres and devastations without justification.

To find the Gestapo guilty of having participated in the execution of this plan by the deportation of innocent civilians from the countries of the West by the tortures and assassinations which were inflicted on them.

To find the government of the Reich (Reichs Regierung) and the Leadership Corps of the National Socialist Party guilty of having, for the purpose of dominating Europe and the world, conceived, prepared and participated in the systematic extermination of innocent civilians from the occupied countries of the West through their deportation and their assassination in concentration camps, and of having taken part in it.

To find the Leadership Corps of the National Socialist Party and the government of the Reich guilty of having for the purpose of dominating Europe and the world through terrorism, conceived systematically and provoked tortures, summary executions, massacres and devastation without cause as described above.

To find the government of the Reich and the Corps of the Political Leaders of the Nazi Party guilty of having for the purpose of dominating Europe and the World conceived, prepared and participated in the extermination of combatants who had been brought to their mercy, in the demoralization of extensive exploitations and the extermination of prisoners of war.

Such are the juridical qualifications of the facts which I have the honor of submitting to you. But a few lessons emerge from these facts. May the Tribunal permit me to state them in conclusion.

For hundreds of years, humanity has renounced the deportation of the vanquished, their enslavement and their annihilation through misery, through hunger, and through steel and fire. It is because a message of brotherhood had been given to the world and the world could not forget entirely this message even in the midst of the horrors of war. From generation to generation we observed an effort upward ever since this message of peace had been given. We were confident that it was without any thought of retracing a step, that man had taken the road of moral progress; that formed the part of the common

H0050 - 0012

heritage of civilized nations. All nations revered equally good faith in relationships amongst individuals. All of them had come to accept good faith as the law of their mutual relationship. The international morality was little by little emerging and international relationship, like relations between individuals, was more and more coming under obedience of the three precepts of the classical Roman jurists: "honneste vivere alterum non laedere, suum quique tribuere."

Every civilized nation had been endowed with a common humanism, derived from a long tradition of Christianity and liberalism added on this common heritage and achieved at the price of hard experience. Each nation enlightened by the properly-conceived interests of man was coming to understand that in public affairs as well as in private affairs loyalty, moderation, mutual aid were the golden rules which none could transgress indefinitely and with impunity. The defeat, the catastrophe which has fallen upon Germany confirm us in this thought and gives only more meaning and more clarity to the solemn warning addressed to the American people by President Roosevelt in his address of 27 May 1940:

"Although our Navy, our guns and our planes are the first line of defense, it is certain that back of all of that there is a spirit and the morality of a free people, which gives to their material defense power, support and efficiency . . . "

And in this combat, the echoes of which are still rumbling in our ears, it was indeed those who could rest their strength upon law, nourish it with justice, who won out, but because we have followed step by step the development of the criminal madness of the defendants and the consequences of that madness throughout these last years, we must conclude that the patrimony of man, of which we are the recipients, is frail indeed; that all regressions are possible and that we must with care watch over this heritage. There is not a nation who ill-educated, badly led by bad masters, would not in the long run revert to the barbarity of the early ages.

These German people whose military virtue we recognize, whose poets and musicians we like, whose application to their task we admire, and who was not without giving example of probity in the most noble works of the spirit; these German people which came rather late to civilization, beginning only with t

the eighth century, had slowly raised themselves to the ranks of nations possessing an older culture. The contributions to modern or contemporary thought seemed to prove that this conquest of this spirit was final -- Kant, Goethe, Jean-Sebastian Bach belonged to humanity just as much as Calvin, Dante or Shakespeare, and still we behold the fact that millions of innocent men have been exterminated on the very soil of these people, by the men of these people, in execution of a common plan conceived by their leaders, and these people had not a single gesture of revolt. That is what has become of them because they have scorned the virtue of political freedom, of civic equality, of human fraternity. This is what has become of them, because they had forgotten that all men are born free and equal before the law; that the essential action of the State has for its purpose to introduce more and more deeply the respect of spiritual liberty and of fraternal solidarity in social relationships and in international institutions.

They allowed themselves to be robbed of their conscience and of their very souls. Evil masters have come who awakened their primitive passions and made possible the atrocities which I have described before you. In truth, the crime of thesemen is to have caused the German people to retrogress twelve centuries. Their crime is to have conceived and achieved as an instrument of government a policy of terrorism toward the whole of the subjugated nations and toward their own people; their crimes is to have pursued as an end in its policy of extermination of entire categories of harmless citizens. That alone would suffice to determine capital punishment. And still, the French prosecution represented by M. Faure, intends to present proof of another crime; the crime of attempting to "exterminate from the world certain concepts which are liberty, independence, security of nations, but which are also called faith in the word 'pledge' and respect of the human person . . ." The crime of having attempted to kill the very soul, the spirit of France and of the other occupied nations in the West. We consider that that crime is the gravest crime committed by these men, the gravest because it is written in the Scriptures, Matthew, XII, 31-32:" .....all manner of sin and blasphemy shall be forgiven unto men, but the blasphemy unto the Spirit shall not be forgiven unto men. Whosoever speaketh against the Spirit it shall not be forgiven, neither in this world, neither in the world to come. For the tree is known by its fruit. Race of vipers, how could ye speak good words when ye are evil ....."

H0050-0013

H0050 - 0014

THE PRESIDENT: Yes.

M. EDGAR FAURE: Mr. President, Honorable Judges: I have the honor of submitting before the Tribunal the concluding statement of the French Prosecution. This presentation relates more particularly to the letters J and I of Count No. 3 of the Accusation, Germanization, Oath of Allegiance, moreover, to letter B of Count No. 4, Persecutions for Political, racial and religious reasons.

First of all I should like to present in a brief introduction the general idea which will orient the plan of my presentation. The concept of Germanization has been stated in the presentation of Monsieur de Menthon. It consists essentially in imposing upon the inhabitants of occupied territories forms for their political and social lives such as the Nazis have developed them, according to their own doctrine and for their own profit. The combined activities which carry out the Germanization or which have Germanization for their purpose and which are illegal acts have been defined as a criminal enterprise against the condition of mind.

The complete processes of Germanization was employed in certain territories which were annexed to the Reich. The Germans intended even before the end of the war to integrate these territories into their country. These territories, annexed as they were and therefore Germanized in an absolute manner, are the Grand Duchy of Luxembourg, the Belgian cantons of Eupen and Malmedy and the three French departments of Haut-Rhin, Bas-Rhin and the Moselle.

It may be considered that these territories are relatively of small area if one considers the regions occupied by the Germans. This in no wise limits the reprehensible character of these annexations. But moreover we should note at this point two essential aspects of our subject. The first of these aspects or propositions: The Germans had conceived and prepared more extensive annexations than those which they had in fact carried out officially. Because it was not to be done at the time, they did not proceed with these planned annexations during the period of time at their disposal. The second proposition, moreover, the annexation was not the unique or

necessary procedure of Germanization. The Germans discovered that they could employ different means and varied means to achieve their purpose of universal domination. The selection of the means according to circumstances which vary, in order to attain and to hide an identical result, was one of the characteristics of what has been called the Machiavellism of the Nazis. Their conception is technically much more pliable, more clever and more dangerous then the classical conception of war of territorial conquest. In this connection, the most brutal conqueror has in regard to them the advantage at least of being frank and open.

I say that in Europe the Germans had formulated the plan to annex more extensive territory. There are numerous indications on this point that can be gathered. I would like to give you only two citations. The first of these is taken from the Documentation collected by our colleagues of the American Prosecution in regard to an American document which has not yet been submitted before the Tribunal. I should say in addition that in my own statement I shall only refer twice to the American documentations. All the other documents which I shall sub; t will be new documents which will be produced by the French prosecution. The document of which I speak now is Document No. 1155-PS, of the American documents, and it appears in the dossie of the documents submitted to you under No. 601. It will be submitted to the Tribunal under that number for French documentation.

This document is dated Berlin, 20 June 1940. It bears the notation. Secretary General Staff Document. Its title is, "Note for the Dossier's File, Concerning the Conversation of 19 June 1940, at the Headquarters of General Field Marshal Goering." The notes which are included in this document reflect therefore the views of the leaders and not individual interpretations. I would like to read before the Tribunal only paragraph 6 of that document, which is to be found on page 3. It is the first document, bearing No. 601. I proceed with the read ng of paragraph 6:

"General plans in regard to political development.

"Luxembourg is to be annexed to the Reich. Norway is to become German. Alsace-Lorraine is to be re-incorporated into the Reich. An autonomous

H0050 - 0015

Breton state is to be created. Projects have been presented concerning Belgium, and the fate to be given to the Flemish in that country, as well as the creation of a State of Burgundy."

The second citation which I will submit to the Tribunal on this point refers to a French document which I place before you under No. 602. This document comprises the minutes of the interogatories of Dr. Globke, a former assistant of the Secretary of State, Dr. Stuckart, in the Ministry of the Interior. It is dated 25 September 1945. This questioning was collected by a Commandant of the French Judiciary Service. In the minutes -- or to the minutes -- there has been added a memorandum which was delivered following the questioning by Dr. Globke. I read a passage from this interrogatory, at the beginning of the document, paragraph 1.

"Question: Have you any knowledge of any plans which envisage the annexation of other French territories at the time of the conclusion of peace Belfort-Nancy, the de Brisy Basin, the coalfields of the north, the so-called "Red Zone", territories attached to the general government of Belgium?

"Answer: Yes, these plans did exist. They were formulated by Dr. Stuckard, upon a personal instruction of the Fuehrer, and I have seen them. They were communicated to the Ministry of Foreign Affairs, to the OKW and to the Armistice in Wiesbaden. All these documents have been destroyed, at least so claims Dr. Globke. The

H0050 - 0016

H0050 - 0017

Secretary of State, Mr. Stuckard, brought a preliminary project to the headquarters of the Fuehrer before the launching of the Russian Campaign -- in 1940. After examination the Fuehrer thought that this project was too moderate and he gave instruction that it should extend to other territories, specifically along the Channel. Dr. Stuckard then prepared a second draft and there was even a map drawn up in headquarters therewith, in which the approximate borders were indicated. I have seen it and I can show it to you roughly on a map of France -- large-scale map of France. I do not know whether this second plan was approved by Hitler."

I have ended my citation.

I now read a passage from the memorandum. It is annexed to the minutes just cited.

THE PRESIDENT: Did you tell us who Dr. Globke was?

M. FAURE: Mr. President, he is the assistant of Dr. Stuckard who was Under-Secretary of State in the Ministry of Internal Affairs. He was designated as drafting officer for matters concerning Alsace-Lorraine, Luxembourg, in the Ministry of Internal Affairs, and had been there since 1940.

I now read a passage from the memorandum annexed thereto. This appears in your Document Book immediately after the passage I have just read. Still under No. 602. I am now reading paragraph 6 of the memorandum in question. It is the beginning of the document before your eyes.

"The project of moving the Franco-German border was elaborated upon in the Ministry of Interior by the Secretary of State von Stuckard, upon order given to him personally by Hitler. This plan envisaged that the territories in the North and the East of France which for any pretended historical background, political, racial, geographical reasons or any other reason whatsoever, could be considered as not belonging to Western Europe but to Central Europe, were to be given back to Germany. A first draft was submitted to Hitler at his headquarters and it was approved by him in its entirety. Hitler nevertheles indicated his desire --

THE PRESIDENT: The typing of these documents has got mixed, because our copy of this part of the documentation after translating into English reads, "After examination, the Fuehrer found this project too moderate and ordered it to extend to other territories, notably to the length of the Channel." I think

H0050 - 0018

there must be a miscopying there, if what you read is right.

M. FAURE: I ask the Tribunal to excuse me. There is indeed a paragra which has been omitted in the dossier which is entitled "Presentation", which is before your eyes. But if the Tribunal is willing --

THE PRESIDENT: Perhaps you could give us a corrected copy afterwards. If you continue your reading now, perhaps you could let the Tribunal have the corrected copy afterwards.

M. FAURE: I shall not fail to do that, Mr. President.

DR. OTTO STAHMER (Counsel for Defendant Goering): The Defense has not received these documents at all! Consequently, even today we are in a poor position to follow the presentation! Above all, we are not in a position to know whether the formal pre-suppositions on which the case is based are really founded in fact!

THE PRESIDENT: Monsieur Faure, is that correct, that none of these documents have been deposited in the Defense Information Centre?

M. FAURE: They have been deposited, Mr. President. They were deposited with two photostat copies in the Document Centre of the Defendants' Counsel. Moreover, before I complete my statement, I am sure that the Defense Counsel will have all opportunity to study this very brief document and to submit any corrections which it may wish to supply, but I can give you formal assusrance that those documents were delivered.

THE PRESIDENT: What assurance can you give me that the orders which the Tribunal has given have been carried?

M. FAURE: The documents have been delivered to Defense Counsel in accordance with instruction and true photostat copies have been delivered in the Document Room of the Defense. These documents are in the German language, which should greatly facilitate the task of Defense Counsel. In fact, the interrogation was taken in the German language by the Officer of the French Judiciary Services.

THE PRESIDENT: You have heard what M. Faure has said.

DR. STAHMER: I should certainly not raise any objections if these documents really were in our Document Room and at our disposal. This morning I looked into the matter along with Dr. Steinbauer and made an effort to deter-

H0050 - 0019

mine whether the documents were really there. We could not find out. Dr. Steinbauer can verify that we could not find the documents. I cannot tell, of course, whether they may not have come in the meantime.

THE PRESIDENT: The Tribunal has stated on a variety of occasions that they attach a great importance to the documents being deposited in the Defendants' Information Centre and copies supplied in accordance with the regulations which they have laid down. Whether that has been done on this occasion, is disputed by Dr. Stahmer. The Tribunal proposes therefore to have the matter investigated as soon as possible and to see exactly whether the rules have been carried out or not. And in future they hope that they will be carried out with the greatest strictness. In the meantime, I think it will be most convenient for you to continue.

We will order the Marshal, Monsieur Faure --

M. FAURE: The Defendant's Counsel tells me that the documents are in the Defense Counsel Room, but they have not yet been distributed. I therefore insist upon the fact that the orders were fully respected, but because of the burden of work it may be that they may not have individually received these documents. In any event, I was prepared to submit immediately to Defense Counsel most definitely concerned with this, photostat copies which would enable them to follow my reading of the documents, which, incidentally, are quite brief.

THE PRESIDENT: Well, the Tribunal will have the facts investigated. And in the meantime, you can continue. The Marshal of the Court will immediately find out and report to the Tribunal what the facts are, about the deposition of the documents and the time at which they were deposited. In the meantime you can continue, and we shall be glad if you will assist the Defense Counsel by giving them any copies you may have available.

M. FAURE: I was saying, then, Document 602, which is annexed to the memorandum -- will the Tribunal be kind enough to follow the reading of this document and if you would kindly take the book entitled "Expose" or "Presentation", and turn to page 6 thereof, the passage is given there. The passage which I now read is the last paragraph of page 6 of the book entitled "Expose" or "Presentation."

H0050 - 0020

THE PRESIDENT: Is it Expose on Luxembourg or Alsace-Lorraine?

M. FAURE: It is entitled "introduction."

THE PRESIDENT: Yes, the last page.

THE INTERPRETER: Page 6, Your Honor.

M. FAURE: Mr. President, you indicated to me a while ago that in the document book a sentence had been skipped. I was therefore asking

H0050 - 0021

you to take the text of my presentation where the said sentence is included in the text, in order to avoid any error in this connection. It is entitled, "Introduction," Presentation, page 6, third and last paragraph:

"A first draft was made to Hitler at his headquarters and it was approved by him in its entirety. Hitler, however, expressed his desire to see allocated to Germany fractions of more extensive areas of territory, in particular along the coast of the Channel. The final draft which was to serve as the basis for future discussions with the departments of the Governments concerned, these discussions did not take place. The approximate outline of the frontier which was considered then started from the mough of the Somme, went along the northern limits of the Parisian Basin, and Champagne, up to the Argonne, then curved to the South, crossing Burgundy and incorporated Franche Comte, finally joining the Lake of Geneva. Various discussions were envisaged for a few provinces."

These German plans were indicated on several occasions by specific measures having to do with the territories in question, measures which might be designated pre-annexation measures.

I come now to the second proposal which I referred to a while ago. With or without annexation, the Germans had in mind to take and maintain under their domination all the occupied countries. As a matter of fact, their will was to Germanize and to Nazify all of Western Europe and even the African Continent. This intention of theirs is clear from the very fact that the conspiracy which has been so completely developed before the Tribunal by my colleagues of the American Prosecution, as will be shown by the applications of it which were made, and the principal of which will be traced in this statement. I merely wanted to recall to the Tribunal this general point that the purpose of Germanic domination is defined according to the German interpretation itself in a public diplomatic document, which is the "Tripartite Pact of 27 September 1940 between Germany, Italy and Japan. In this connection I would like to quote before the Tribunal a few sentences of a comment given in connection with this treaty by an official German author, von Freytagh-Loringhoven, a member of the Reichstag, who wrote a book on the foreign policy of Germany from 1933 to 1941. This book was published in a French translation in Paris at the editing house of Sorlot under the Occupation. I don't want to submit this as a document but

H0050 - 0022

merely as a quotation from a public work, which book is here in your hands. I am reading from page 311:

"This treaty granted Germany and Italy a dominant position in the new European order and it bestowed upon Japan a similar role in the area of Eastern Asia."

I am now skipping a sentence that has no significance.

"At first glance, one can realize that the Tripartite Pact had in mind a double purpose."

I will skip the following sentence which is not of any interest, and I will go to the sentence which deals with thesecond purpose:

"Moreover, it entrusted the parties with a mission for the future, that is to say, the establishment of a new order in Europe and in Eastern Asia. Without seeking to lessen the importance of the first question, there can be no doubt that this second purpose, dealing with the future, involved vaster projects and was in fact the principal point. For the first time in an international treaty, the Tripartite Pact used the terms, "Space" and "Orientation" by associating them one with the other."

I now go to page 340 where the author makes a remark which appears to us to be significant.

"Now, the Tripartite Pact places a clear delimitation of the wider spaces created by nature on our globe. The concept of space, it is true, is employed explicitly only for the Far East, but it is clear that it is equally applicable to Europe and that Africa is comprised within this conception. The latter -- that is, Africa -- is certainly politically and economically a complement, or, if one wishes, an annex of Europe. Moreover it is obvious that the Tripartite Pact fixes the limits of the two broad spaces reserved to the partners, that the Pact recognizes tacitly the third space, that is Eurasia, properly speaking, and it leaves aside the fourth, that is, the American Continent, thus leaving the latter to its own destiny. In this way the whole surface of the globe is included and one thought which as yet has not engaged us up to now, except in theory was lifted to the significance of a political principal and concerning international law."

"I have felt that this text was of interest because on the one hand it

H0050 - 0023

clarifies the fact that the African Continent is itself included in the space reserved to the German claimants. Moreover, it states that the Government of such an immense space by Germany will now become international law. This pretense of acting juridically is one of the characteristics of the undertaking of Germany to Germanize the world from 1940 to 1945. It is undoubtedly one of the reasons which inspired Nazi Germany to proceed except on special cases by the annexation of territories.

Annexation is not indispensable for the domination of a great area. It can be replaced by other spaces which correspond rather accurately to the usual term of reduction to vassalage.

THE PRESIDENT: Don't you think this will be a convenient time to break?

(A recess was taken from 1120 to 1135 hours.)

H0050 - 0024

M. FAURE: Mr. President: Before taking up my brief, I should like to ask the Tribunal if they could agree to hear, during the afternoon session, a witness who is M. Reuter, President of the Chamber of Luxemburg.

THE PRESIDENT: Certainly, M. Faure, if that is convenient to you, the Tribunal is quite willing to hear the witness you name.

M. FAURE: I propose on those conditions to have him heard at the beginning of the second part of the afternoon session.

In the second place, I should like to point out as for Document 602, where a part of the text was missing in the document book, this is due to the fact that the page was affixed to another page, that is to say the first page - I beg your pardon, because of a numerical difference. I must say the text was complete. However, it was not in its proper order. I shall naturally put it in the dossier in its proper order.

I pointed out just now that the different methods of disguised annexation correspond to the expression of vassalisation.

From a German author I will take a formula which is eloquent. It is Dr. Sperl, in an article in the "Krakauer Zeitung", who used this expression: "A differentiation in methods of German domination." In using, thus, indirect methods and differentiated methods of domination, the Germans acted in political matters as we have seen that they acted in economic matters. I had the opportunity to point out to the Tribunal, in my first brief, that the Germans immediately seized the keys of economic life. If you will permit me to use this expression, which is a Latin expression, I shall say that as far as sovereignty in the occupied countries is concerned, they insured to themselves the power of the keys, "potestas clavium" - the seized the keys of sovereignty in each country. In that fashion, without being obliged to officially abolish national sovereignty as in the case of annexation, they were able to control and direct the exercise of this sovereignty.

Beginning with these principle ideas, the plan of my brief was conceived as follows:

In the first chapter I shall study the regime in annexed territories where national sovereignty was abolished. In a second chapter I shall study the mechanism of the seizure of sovereignty for the benefit of the occupying power

H0050 - 0025

in the regions which were not annexed. Then it will be suitable to take up or to scrutinize the results of these usurpations of sovereignty and the violation of the rights of the population which resulted from them. I thought that I should group these points in considering the principal results.

The third chapter will be devoted to propaganda, to spiritual propaganda in the very extensive sense that the German concept gives to this term.

Chapter four, and the last chapter, will bear the heading, "The Administrative organization of criminal action."

I would now like to point out, as far as the documentation of my brief is concerned, I have striven to limit the number of texts which will be presented to the Tribunal and I shall attempt to make my quotations as short as possible.

For the first chapter, I might point out, the French delegation examined more than two thousand documents, counting only the original German documents and I have kept only about fifty of them. I should like also to point out to the Tribunal how the documents will be presented in the document books which you have before you. The documents are numbered at the top of the page to the right; they are numbered in crayon. They are in consecutive order, an order corresponding to the fashion in which I will quote them. Each dossier has a pagination which begins with the number one hundred.

I would ask the Tribunal to now take up the document book entitled "Eupen and Malmedy".

In carrying out, without any attempt or cloak of legality, the annexation of occupied territories, Germany did something much more serious than the violation of the rules of law. It is the negation of the very idea of international law.

The "jurisconsulte", Bustamante Y. Sirven, in his treatise on internationa law expresses himself in the following terms regarding this subject.

"We have been enabled to observe that we have never alluded at any moment to the hypothesis where the occupation terminates because the occupying power takes possession of the occupied territory through his military strength and without any convention. The motive for this omission is very simple and

H0050-0026

very clear. Since the conquest cannot be considered as the legitimate mode of acquisition, these results are uniquely or solely the result of force and cannot be determined or measured by the rules of law".

On the other hand, I said just now that Germanization did not necessarily imply annexation. Inversely, we might conceive that annexation did not necessarily mean Germanization. We shall prove to the Tribunal that annexation was only a means, and the most brutal one, of Germanization, that is to say her Nazification.

The annexation of the Belgian Cantons Eupen, Malmedy and Moresnet, was carried out by a German law of May 18, 1940, and was carried out through an executive decree of May 3, 1940. These are public regulations, which were published in the Reichsgesetzblatt, pages 777 and 804. I should like to ask the Tribunal to take judicial notice of this. As a result of this decree the three Belgian districts were attached to the province of Rhenanie, the district of Aachen. A decree dated September 23, 1940 brought in the German local government and German municipal laws.

The decree of July 28, 1940 introduced the German judicial system in these territories. Local courts were established in Malmedy, in Eupen and St. Vith and district courts at Aachen, which could issue statues for the local courts. The Court of Appeals of Cologne replaced the Belgian Court of Appeals for cases which would have been competent.

German law was introduced in these territories by the decree of May 23 1940, signed by Hitler, Goering, Frick and Lammers, and went into effect beginning the 1st of September 1940. A decree of September 3, 1940, regulates the details of the transition of the Belgian law into German law, in the domain of private law, commercial law and law of procedure.

German nationality was conferred by the decree of annexation upon the inhabitants called German in this Belgian territory. The details of this measure were specified and stipulated by the decree of the 23 of September, 1941. All persons who had acquired Belgian nationality, because of the coding of these territories, could, according to the terms of the decree, resume their German nationality. Exception was made, however, for Jews and gypsies. All the other inhabitants, on condition that they were racially

H0050 - 0027

German, might acquire German nationality, which might be revoked after ten years.

I shall not take up at great length, the situation which resulted from the annexation of these Belgian territories for the developments of the situation are analogous to those which we shall take up as to the other countries. I simply would like to point out one detail, which is special to this subject. A law of February 4, 1941, signed by Hitler, Goering, Frick and Lammers, granted the citizens of Eupen, Malmedy and Moresnet, a representative in the Reichstag, that is to say, the benefits of the German parlimentary regime, of which we know its democratic character.

I shall ask the Tribunal to now take up the dossier entitled "Alsace and Lorraine." There is a dossier for the brief and a dossier of documents.

In a different way from what took place in the Belgian towns of Eupen, Malmedy and Moresnet, the Germans did not officially proclaim a law of annexation for the three French departments, which constitute Alsace and Lorraine.

The very fact of this annexation, however, is doubtful in no way. I should like to remind the Tribunal here of extracts from a document which has already been submitted to it, which is Number 3 of the French documentation. This is a deposition made before the French High Court of Justice by the French Ambassador Leon Noel, who was then a member of the Armistice Delegation. I did not put this document in your book again because I only will cite one sentence from it. The document has already been submitted to the Tribunal, as I have just said. Ambassador Noel, in this document, pointed out the conversations which he had at the time of the signing of the Armistice Convention with the German representative, notably with the accused Keitel and Jodl. The sentence which I would like to remind the Tribunal of is as follows:

"And likewise in thinking of Alsace and Lorraine I required them to say that the administrative and judicial authorities of the occupied territories would keep their positions, their functions and would be able

H0050 - 0028

to correspond freely with the government."

The affirmations are dated the 22nd of June, 1940. I am now going to submit to the Tribunal a document of September 3, 1940, which is a note of protest of the French Delegation, addressed to the German Armistice Commission. I submit this to the Tribunal in order that the Tribunal in order that the Tribunal may see that during the period which elapsed between these two dates, a period which covers barely two months, the Nazi had already applied a series of measures which created in an incontestable manner, a state of annexation.

This document which I submit bears the number 701 of the French documentation. It is the first document of the Document Book which the Tribunal has before it. All the documents in this chapter will bear numbers beginning with the number 7.

This document comes from the dossier of the High French Court, and the copy submitted to the Tribunal has been certified by the clerk of this jurisdiction. I should like to quote from this document, beginning with the fourth paragraph on page 1 of the document 701:

1. "Prefects, sub-prefects and mayors, as well as a number of local officials whose tendencies were considered suspicious, were to be evicted from their respective offices.

2. Monseigneur Heintz, Bishop appointed under the Concordat at Metz, was driven from his diocese. Several members of the clergy, secular as well as ordinary members, or as well as legal members, were also expelled under the pretext that they were of French tongue and mentality.

3. Monseigneur Ruch, the Bishop appointed under the Concordat at Strasbourg, was forbidden to enter his diocese and consequently, to resume his ministry.

4. Mr. Joseph Burckel was appointed, on the 7th of August, Gauleiter of Alsace. The first of these provinces" --

I ask the Tribunal's pardon; "and Mr. Robert Wagner was Gauleiter of Alsace.

"The first of these provinces was allied to the Gau of Sarre-Palatinat; the second to the Gau of Bade.

"5. Alsace and Lorraine were incorporated in the civil administration of Germany. The frontier and custom police were then placed on the Western

H0050 - 0029

limits of these territories.

"6. The railroads were incorporated in the German network.

"7. The administration of post offices, telegraph and telephones was taken in hand by the German postal authorities, who gradually substituted for the Alsatian personnel their own personnel.

"8. The French language was eliminated, not only in administrative life, but it was eliminated from public use.

"9. Names of localities were Germanized.

"10. The racial legislation of Germany was introduced into the country and, as a result of this measure, the Israelites were expelled, as well as nationals which the German authorities considered to be intruders.

"11. All Alsatians and Lorrainers who agreed to consider themselves as being of German stock were permitted to return to their homes.

"12. The property of associations of a political character, and of Jews, was confiscated, as well as property acquired prior to the 11th of November, 1918, by French persons."

"Nothing illustrates better the spirit which animates these measures, in themselves arbitrary, as the words pronounced publicly July 16, at Strasbourg, by Mr. Robert Wagner. Stressing the elimination which was taking place of all the elements of foreign stock or nationality, this high official affirmed that the purpose of Germany was to settle once and for all the Alsatian question. Such a policy, which could not be the function of subordinate occupational authorities, was equivalent to disguised annexation, and is formally contrary to agreements subscribed to by Germany at Rethondes."

Numerous protests were subsequently addressed or lodged by the French delegation. We have attached to our dossier a list of these protests; there are 62 of them. This list is found in the book under the number 702.

The development of the German policy may now be studied through three series of measures which were carried out.

First, a group or body of measures destined to insure the elimination of what we might call

H0050 - 0030

the French complex, that is to say, on everything which can tie an inhabitant of an annexed country to his condition and to his national tradition.

Secondly, a body of measures destined to impose German norms in all the domain or the life of the population.

Third, the measures of transplantation and of colonization.

We use here the German terminology:

First, elimination of the French complex.

The elimination of French nationality and of French law automatically resulted from the measures which we shall study relative to the imposition of German norms. I should like to point out particularly, in this present part, that the Germans tried to fight against all elements of French organizations which could survive after the suppression of their national and juridical conditions. At first they proscribed in an extraordinarily brutal way, the use of the French language. Several regulations were formulated relative to this. I shall cite only the third regulation, bearing the date of August 16, 1940, entitled, "Concerning the Reintroduction of the Maternal Language." This document is published in the Journal of German Ordinances or Decrees of 1940, at page 2. This is document number 703. The Tribunal will find it in the Document Book after the document 702, which is the list of French protests. I should like to read a great part of this document, which is interesting, and I shall begin at the beginning.

"Following the measures undertaken with a view of reintroducing the maternal language of the Alsatian people, I decree as follows:

"1. Official Language.

"All public services or departments in Alsace, including administration of communes, of corporations within the meaning of civil law, public establishments, churches, and foundations, as well as tribunals, will exclusively use the German language orally and in writing. The Alsatian population will use exclusively its German maternal language in speaking to one another orally and in addressing the aforementioned services in writing."

On the second page:

"2. Christian Names and Family Names.

H0050 - 0031

"Christian names will be exclusively used in their German form orally and in writing, even when they have been inscribed in the French language on the birth register. As soon as this present decree comes into force, only German Christian names may be inscribed upon the birth register. Alsatians who bear French Christian names, which should have a German form, are asked to ask for a change of their Christian names in order to show their attachment to Germanism. The same is true for French family names."

I skip to the following page, the third paragraph of that page.

"The enterprises and establishments having their seat in Alsace, and whose trade name is French in all or in part, must replace this trade name by a corresponding German designation the 15th of September, 1940, at the latest."

I shall skip the following paragraph and I now go to paragraph 4:

"It is forbidden to draw up, in French language, contracts and accounts under seal of whatever nature they may be. Anything printed on business paper must be drawn up in the German language. Books and accounting of all business firms, establishments and companies must be kept in German language.

"Fifth, Inscriptions in Cemeteries.

"In the future, inscriptions on crosses and on tomb stones can only be written in the German language. This provision applies to a first inscription as well as to an old inscription which may be renewed."

These measures were accompanied by a press campaign. Because of the resistance of the population, this campaign was carried out during all the occupation.

I should like to make one citation of an article which is particulatly significant, which was published in the Dernieries Nouvelles of Strasbourg on the 1st of March, 1943. This is not introduced as a document; it is merely a quotation of a published article. When we read this article, we think at first that it seems to be a joke, but we see subsequently that it is quite serious because true reprisals, or repressive measures, are stipulated there against people who sabotaged the German language.

I cite:

"A German greets one saying 'Heil Hitler'. We do not wish any further French formulas of greeting, which we hear often now. The salutation 'Bonjour'

H0050 - 0032

is not made for these rough Alsatians. Accustom yourselves to the German tongue. The Alsatian language harms our ears. When we say 'Au Revoir', the French think theyare listening to an Arabic word, which sounds barbarous. Sometimes they say 'Adje'. This word is phonetic, which makes our beautiful German dialect unmusical. These words are not worthy of Alsace. It harms the female sensitivity to say 'Frau' instead of 'Madam'.

"We are sure that Alsatians are going to lose the habit of linguistic complexities so that the authorities will not have to act against those who sabotage the German language."

After this attack on the language, the National Socialists now attack music. This is the purpose of a decree of March 1, 1941, signed by the Administrative Chief of the People and of Propaganda, Dressler. This is Document 704, published in the German Official Journal, page 170, of the year 1941. I shall simply cite the title of this decree, "Concerning Undesirable and Disagreeable Music." The first three lines are:

"Musical works contrary to the will of the National Socialist culture will be place on a list concerning undesirable and harmful music, under the section of Propaganda to the People."

After music, now, we have the question of headwear. In this regulation its ridiculous quality struggles constantly with its odious nature. I would almost like to ask the Tribunal to pardon me, for truly nothing in this is invented by us.

Here is Document 705. It is a decree of December 13, 1941, published in the Official Bulletin of 1941, page 744. This Document 705 concerns the wearing of French berets, berets Basques in Alsace. I only read the first paragraph

"The wearing of French berets (Basque berets) is forbidden in Alsace. Under this prohibition all berets must be considered which, by their form or by their aspect, resemble French berets.

"I may add that this prohibition may result in fine or prison."

H0050 - 0033

The leaders also undertook a long struggle against French flags, which the inhabitants kept in their homes. I cite as an example document 706, a German administrative document, which we found in Strasbourg, in the archives of Strasbourg. It is dated February 19, 1941. I read three paragraphs of this document.

"The Gauleiter desires that through the organization of Blocks and Zellenleiter the Alsatian population be asked to unsew flags which they still have in their possession, and to use them in an adequate way for household needs. Until the 1st of May next no French flag should be in private hands.

"This operation must be carried out in the following way. The Blockleiters will visit the houses one by one and recommend that the families use flags for household needs.

"It must also be pointed out that after the 1st of May next we will derive the proper conclusion concerning the attitude of proprietors or householders in whose homes we still find French flags in private property."

The following document is our document 707, which is also an administrative memorandum on the same subject, dated Strasbourg, April 26, 1941, and I should simply like to read the last sentence. "Where, from the 1st of June, 1941, Alsatians still have in their possession French flags, they must spend one year in a concentration camp."

The Nazis feared French influence to such a degree that they even took a special measure to prevent French workers from coming to Alsace, among them workers who were brought into this territory by the obligatory or compulsory service bureau. This is the purpose of a memorandum of the 7th of September, 1942, of the civil administration in Alsace, which is our document 708, also found in the archives of the Gauleitung of Strasbourg. I read the first line of this document 708.

"Given the general situation of the labor market, the Chief of

H0050 - 0034

the Civil Administration has decided that foreign labor from all European countries must, in the future, be used in Alsace. There is an exception, however, for French and Belgians, who cannot be employed in Alsace."

The German undertaking against the French sentiment or feeling of Alsatians--

THE PRESIDENT: The translation which came through to me came to me as "must." It came through that the foreign workers of all countries of Europe must, in the future, be used. The word is "pouvait." That doesn't mean "must," does it? It is "pouvait." Doesn't that mean "could"?

M. FAURE: The interesting aspect is that those who are French may not work there, even if labor is needed in Alsace.

The German undertaking against the French feeling of the Alsatians found its complement in the attempt to also destroy, outside, anything which might be an indication that Alsatians belonged to France. I shall cite one example in relation to this point. This is our document 709.

H0050 - 0035

It is a letter of the German ambassador in Paris, May 7, 1941, which is reproduced in a memorandum of the General Delegation of the French Government, which is found in the archives of the government. I read this document 709, which is short:

"The German Ambassador has the honor to point out the following to the General Delegation of the French Government in occupied territory.

"The German Ambassador has been informed that in a series of reports on a theme concerning the country, a French radio station in the non-occupied territory, on the 16th or 17th of April, 1941, about 21 hours, broadcast in the village of Brumath.

"As Brumath, near Strasbourg, is in a territory of German language, the German Ambassador requests that they inform him if in truth such a broadcast took place."

There exist numerous protests of this kind, which fortunately have often been kept, and have kept an anecdotic character. We must now cite two especially serious cases, for they included assault, flagrant violations of sovereignty, and even crimes.

The first case concerns the seizure and profanation of the treasure of the cathedral of Strasbourg. I shall submit, concerning this subject, Document 710, which is a letter of August 14, 1943, a letter of protest of General Berard, President of the French delegation attached to the German Armistice Commission. I read the beginning of the letter:

"My General;

"From the beginning of the war, the treasury of the Strasbourg Cathedral and the property of certain parishioners of this diocese had been entrusted by Monseigneur Ruch, Bishop of Strasbourg, to the Beaux-Arts Department. The Beaux-Arts Department had put them in a safe place in the chateau of Hautefort and of Bourceilles in Dordogne, where they still were on the date of May 20, 1945."

There is a serious error. It should be May 20, 1943.

"Among the treasures of this property are found in particular the pontificlia reserved for the exclusive use of the bishop, several of which were his personal property; the relics of saints; vases or objects for the celebration of ceremonies.

"After having sought on several occasions, but in vain, to obtain the consent of Monseigneur Ruch, the ministerial counsellor Kraft solicited upon the 20th of May, not only from the prefect of Dordogne, but also the director of ceremonies, the authorization to remove these trusts. Faced with the refusal of these high officials, he declared that the repatriation to Alsace of the property of the Catholic Church would be entrusted to the Sicherheitspolizei.

"As a result, on the dawn of May 21, the castles of Hautefort and Borceilles were opened and occupied by the troops, despite the protestations of the conservateur. The holy objects were placed in trucks and were taken to an unknown destination. This seizure, moreover, was carried out in the case of the vases and ceremonial objects ritually blessed, and the relics of saints honored by the veneration of the faithful. The seizure of these holy objects by laymen not legally mandated, and the conditions under which the operation was carried out, awakened the emotion and unanimous reprobation of the faithful.

"Signed: Berard."

Relative to these documents I would like to emphasize to the Tribunal one fact which we shall find frequently subsequently, which is, in our opinion, very important in this trial. It is the constant collaboration of different or diverse German administrations. Thus, the Tribunal must, through this document, observe that the Minister Kraft, belonging to several services concerning national education, appeals to the police and to the SS to obtain objects which he cannot obtain through his own efforts.

The second case which I would like to cite concerns the University of Strasbourg. From the beginning of the war, the University of Strasbourg, which was one of the most beautiful universities in France, had withdrawn to Clermont-Ferrand to continue its teaching there. After the occupation of Alsace, and since this occupation constituted annexation, it was not brought back to Strasbourg and remained in its city of refuge.

"The Nacis conceived a great discontent which was expressed in numerous threatening memoranda. We would like to submit Document 711 relative to this. In this document we shall find the ministerial counsellor Herbert Kraft, about whom I spoke in the preceding document. The document which I submit bears the number 711 and is an original signed by Kraft. It was found in the archives made by the German embassy.

H0050 - 0036

H0050 - 0037

In this memorandum, which is dated July 2, 1941, Counsellor Kraft expresses his disappointment at the result of steps which he had undertaken with the rector of the University of Strasbourg, M. Danjon. I believe that it is adequate if I read a very short passage of this memorandum in order to show the insolence and the threatening methods which the Germans used, even in the part of France which was not yet occupied. The passage which I am going to read will be the last paragraph on page 2 of Document 711. Mr. Kraft relates the end of his conversation with the rector. I cite:

"I cut the conversation short, arose, and asked him if, by chance, the decision of Admiral Darlan did not represent for him an order from his government. As I went out I added, I hope that they will arrest you. He ran after me, made me repeat my remark, and as I went off he said to me ironically that it would be for him a great honor."

This document gives an amusing impression, but the matter in its spirit was very serious.

The 15th of June 1943, the German Embassy wrote a note which I submit as Document 712. This document is an extract from the archives of the High Court and has been certified by the clerk of that jurisdiction. Here is the text of this Document 712, I shall not read the beginning of the document:

"The German Embassy feels that it is extremely desirable to work its way towards a solution of the affair of the University of Strasbourg at Clermont-Ferrand. We would be happy to learn that no further publication would appear under the title 'University of Strasbourg' so that new disagreements may not result from publications of that kind.

"The German Embassy is aware of the fact that the Ministry of National Education can no longer fill professorial chairs which have become vacant. We request that in the future no examination certificate be awarded with the mention of University of Strasbourg."

I must, in concluding this subject of the University of Strasbourg, point out to the Tribunal a fact which is notorious. That is, Thursday, the 25th of November, 1943, the German police took possession of the buildings of the University of Strasbourg in Clermont-Ferrand, arrested the professors and students, screened them, and deported a great number of persons. During this operation, they even shot at two professors. One was killed and the other was seriously wounded.

I will be able to produce a document relative to this, but I do not think that is indispensable since there are proofs for this accusation that these murders were committed under orders which definitely show governmental responsibility.

THE PRESIDENT: M. Faure, did you say that you had or had not got proof of the facts that you have just stated about the seizure of the property of the university?

M. FAURE: I said this, Mr. President: We consider that these facts are facts of public knowledge, but because of the interpretation which was given by the Tribunal, I have considered that it would be better to prove it by documents. As this document was not bound into this book at that time, this document will be submitted as a text. I am going to read a passage of this document, but I should like to explain that it isn't found in its proper place as I added it to the brief after the statement of the Tribunal the other day according to the interpretation of facts of public knowledge.

THE PRESIDENT: The Court will adjourn now.

H0050 - 0038

H0050 - 0039

Tomorrow being Saturday, the Tribunal will sit from 10:00 o'clock in the morning until 1:00 o'clock. We will then adjourn.

DR. KAUFFMANN: (Counsel for the defendant Kaltenbrunner): It was said that this afternoon there will be a witness. I would like to ask that this testimony be postponed to another day. I believe that we have reached a so-called silent agreement that we will be notified in advance as to whether there will be witnesses and what the subject will be.

I don't know whether there will be cross examination, and the possibility exists, of course, and expert questions can only be put when we know, first of all, who the witness is to be, and secondly, what the subject will be that the witness will be cross examined on, and perhaps we will just have a clue.

THE PRESIDENT: The Tribunal does not think it is necessary to postpone the evidence of this witness. As a matter of courtesy on the part of the Prosecution, it would be well, perhaps, that the subject matter - not necessarily the name, but the subject matter upon which the witness is to give evidence - should be communicated to the defense so that they may prepare themselves upon that subject matter for any cross examination.

I understand that this afternoon you propose to call a witness who will deal with the circumstances in respect to the German occupation of Luxembourg. That is right, is it not?

M. FAURE: Yes, Mr. President.

THE PRESIDENT: Perhaps you will give the defendants' counsel the subject matter upon which they can prepare themselves for cross examination. I am told that this subject matter has already been communicated to the defendants and is on their bulletin board at the present moment.

(Whereupon at 1250 hours the hearing of the Tribunal adjourned to reconvene at 1400 hours).

H0050 - 0040

Official transcript of the International Military Tribunal in the matter of: The United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics, against Hermann Wilhelm Goering, et al., Defendants, sitting at Nurnberg, Germany, on 1 February 1946, 1400 to 1700, Lord Justice Lawrence presiding.

MARSHAL OF THE COURT: May it please the Court, I desire to announce that the defendants Kaltenbrunner, Seyss-Inquart and Streicher will be absent from this afternnon's session on account of illness.

THE PRESIDENT: The question which was raised this morning about certain documents has been investigated, and the Tribunal understands that the documents were placed in the Defense Counsel's Information Center yesterday, but it may be that the misunderstanding arose owing to those documents not having been in any way indexed, and it would, I think, be very helpful to the Defense Counsel if Prosecuting Counsel could, with the documents, deposit also some sort of index which would enable the Defense Counsel to find the documents.

M. FAURE: It is understood that we shall present a table of contents of the documents to the German Defense.

THE PRESIDENT: I think if you could, yes.

M. FAURE: Your Honors, I was speaking this morning of the incident which occurred at the Strasbourg faculty in Clermon-Ferrand, Strasbourg, 25 November 1943. I pointed out to the Tribunal that I produced to this effect a document. This document has not been classified in the document book, and I shall ask the Tribunal to accept it as an annex number or as the last document of this book, if that is agreeable.

This is a report of M. Hoeppfner, Dean of the Faculty of Letters, a report established on the date of 8 January 1946, and transmitted from Lorraine to the French Public Ministry. I should like to read simply to the Tribunal, in order not to take up too much of its time, the two passages which constitute the texts which were submitted to it as an appendix.

THE PRESIDENT: Have you got the original document here?

M. FAURE: Yes. "This is the 25th of November [illegible]

H0050 - 0041

shows me in the inner court a Wehrmacht soldier with helmet, boots, a submachine gun in his arm, mounting guard. 'Let us try--' Too late. At the same moment, wild cries arise from all directions--the corridors, the stairways, fill with sound of heavy boots, the clanking of weapons, fierce cries, a frantic shuffling. A soldier rushes down the hall 'between everybody in the hall.' Naturally everyone understood."

Second passage:

"One of our people, Paul Collomp, was coldly murdered with a shot in the middle of the chest, and an eye-witness confirms the fact that this, alas, is only too true. Asked to leave the Secretariat where he was alone he was, no doubt, obeying too slowly for the policeman, for the latter gave him a violent blow in the back, and instinctively our colleague turned around, and the other then fired a shot full in the breast. Death was almost immediate, but the body was left there for some time.

"Another sound reached us. We didn't know from where. A colleague in Protestant Theology, M. Eppel, was apparently also shot down in his own house, where he had been sent for. He received, as was later learned, several bullet shots in the abdomen, but miraculously recovered and even resisted the horrors of Buchenwald Camp."

As I indicated to the Tribunal this morning, I wish to say that the accusation does not have the proof that such crimes were due to a German governmental order, but I believe that it is nevertheless interesting to advise the Tribunal of this last episode of the German undertakings against the University of Strasbourg, for the episode constitutes the succession, the consequence, and in a sense, the crowning of the preceding incidents. We have seen, indeed, that German procedure began first by regular procedures and that after these regular procedures, it reached the stage of recourse to the police and brutality and violations that accompanied this systematic development.

I wish to advise you that this document which I have just read bears the number 712.

I come now to the second part of this subject, which is the imposition of Germanic norms. The leaders of the Reich began by organizing a specifically German administration. I already indicated a while ago the appointment of Gauleiters as chiefs of the civil administration. I continue

H0050 - 0042

on this point by producing as document 713 the Ordinance of 28 August 1940. Official German Journal, 1940, Page 22. The Ordinance is entitled "Concerning the Introduction of the German Regime in Alsace." I shall not read this Ordinance. I simply indicate that its object is to put into effect from 1 October 1940 the German municipal regime of 30 January 1935.

The body of the text and the body of the organization show that the territories annexed were re-organized on the basis of German administration concepts. At the head of each arrondissement we have no longer the French sub-prefect but a Landkommissar, who has under his orders the different offices of Finance, Labor, School Inspection, Commerce, and Health. The large towns, the seats of arrondissements and even of cantons, were endowed with a Stadtkommissar instead of and in place of the eliminated mayors and municipal counsellors.

The judiciary offices were attached to the Gaus, who were court of appeals. The agricultural services, and in particular, the chambers of commerce, were carried out by the representatives of the chambers of commerce of Karlsruhe for Alsace and of Saarbruecken for Moselle.

After having Germanized the forms of the administrative activity, the Germans undertook to Germanize the personnel. They named numerous German officials to posts of authority.

They attempted, moreover, on a number of occasions, to have the officials who had remained in office signed declarations of loyalty to the Germans. These attempts, however, met the refusal of the officials. They were renewed on a number of occasions in different forms. We have been able to recover in the archives of the Gauleiter of Strasbourg ten different formulas of these declarations of loyalty. I shall produce one of these for the Tribunal, by way of example. This is Document 714:

"Formula of the new declaration which the officials are obliged to sign if they wish to keep their employment:" There are blanks for the date, name and first name, grade, and domicile, and Service.

"I have been engaged since _____ 1940 up to this date in a public service of the German administration in Alsace. During this period I have had occasion through my own observation, as well as through the Party and the authorities, verbally and in writing, to learn the obligations of the

H0050 - 0043

German official and the requirements which are exacted of him from the point of view of policy and general opinion. I approve these obligations and these requirements without reservation and am resolved to be ruled by them in my personal and professional life. I give my adherance to the German people and to the National Socialist ideals of Adolph Hitler."

Along with the administration, properly speaking, the Nazis set up in Alsace the parallel administration of the National Socialist Party, as well as that of the Arbeitsfront, which was the sole labor organization.

German legislation on currency was introduced to Alsace 19 October and to Lorraine 25 October 1940. The Empire Mark became henceforth the legal means of payment in the annexed territory.

The German judiciary organization was introduced by a series of successive measures which led to the decree of 30 September 1941 concerning the simplification of the judiciary organization in Alsace. I produce this ordinance as Document 715.

In regard to teaching, the German authorities established a series of regulations and of ordinances which were aimed at assuring integration into the German teaching system. I shall simply mention the dates of these chief documents, which we produce as documents and which are documents of a public nature, since they were all published in the Official Journal in Germany.

Here are the Chief texts:

Document 717, regulation of 2 October 1940.

Document 718, ordinance of 24 March 1941 on elementary teaching in Alsace.

Document 719, ordinance of 21 April 1941 concerning the allocation of subsidies in Alsace.

Document 720, ordinance of 11 June 1941 on obligatory education in Alsace.

I now quote a series of measures regarding the introduction in Alsace and Lorraine of German civil law, German criminal law, and likewise, procedure. I shall quote as the most important, under Document 721, the ordinance of 19 June concerning the application of the provisions of German legislation to Alsaciens. I should like to read the first paragraph of Article 1 because it indicates a notion which is interesting:

H0050 - 0044

"Article 1. (1) The state of persons who have acquired French nationality by virtue of the appendix to Articles 51 to 319 of the dictate of Versailles, as well as the state of persons who hold their nationality from this source, notably as regards the personal status and the right of family, are ruled by the legislation in force in the old Empire as rights of their country of origin, to the extent to which this legislation provides for the application of the laws of the country of origin."

A similar ordinance was drawn up for Lorraine-- Document 722, ordinance of 15 September 1941 concerning the application of German legislation to personal and family status in Lorraine. German Official Bulletin, page 817.

I should like now to quote, indicating the titles and the references, the principal measures which have been introduced in the penal sphere.

Document 723, notice of 14 February 1941 relative to the penal dispositions declared applicable in Lorraine by virtue of Section 1 of the second ordinance concerning certain measures in the domain of justice.

Document 724, ordinance of 29 October 1941 relative to the introduction to Alsace of the German legislation of penal procedure and of other penal laws.

Document 725, ordinance of 30 January 1942 relative to the introduction to Alsace of the German penal code and other penal laws.

I do not wish to read the text which is so long, but I should like to draw the attention of the Tribunal to two features which show that the Germans introduced into Alsace the most extraordinary provisions of the penal law, conceived

H0050 - 0045

from the point of view of the National Socialist regime. The Tribunal will see this in this document 725, page 1 under Number 6 of the enumeration that the law of 20 December 1934 repressing perfidious attacks directed against the State and the Party and protecting the uniforms of the Party.

The ordinance of 25 November 1939 completed the penal provisions tending to the protection of the military power of the German people.

As concerns public freedom, the Germans eliminated from the beginning the right of association, and they dissolved all such associations. They intended to leave free room for the Nazi system, which involves the single and obligatory association.

I shall quote in the same way a number of documents, with the titles of these texts, which are public:

Document 727, regulation of 22 August 1940, setting up a supervising commissariat for associations in Lorraine.

Document 728, regulation of 3 September 1940 introducing the dissolution of unions of teachers.

I point out in regard to this document 728, that the last article provides an exception in favor of the organization called Union of National Socialist Teachers.

Document 729, regulation of 3 September 1940, introducing the dissolution of gymnastic societies and of sports associations in Alsace.

I should like to read Article 4 of this document 729:

"My commissar of Physical Sulture will make in regard to other gymnastic societies and sports associations in Alsace all necessary provisions in view of their integration into the Empire National Socialist Union for Physical Culture."

In the process of the organization of Germanism, we now encounter two texts which are very characteristic, and which I produce as documents number 730 and 731. Of Document 730 I read simply the title, which is characteristic: "Ordinance of 7 February 1942 relative to the creation of an Office of Geneological Research of the Upper Rhine."

I shall likewise read the title of document 731: "Regulation of

H0050 - 0046

17 February 1942 concerning the creation of the Service of the Official German Commissar for the Strengthening of Germanism."

I indicated a moment ago to the Tribunal that the Party had been established in Alsace and in Lorraine in a way that was parallel with the administration I shall produce in this connection Document 732, which is a confidential note of the National Socialist Workers Party of the country of Badd, dated Strasbourg, 5 March 1942. This document is likewise part of the series found in the files of the Gauleiter of Strasbourg. It bears as a heading, "Direction of the Gau -- Auxiliary Bureau of Strasbourg."

If the Tribunal please, I shall read the beginning of this document:

"Evaluation of possible adherences to the Party, to its subdivisions and to the groups to it in Alsace.

"In the framework of the action of 19 June organized for the recruiting of members of the Party, the Kreisleiter in collaboration with the Ortsgruppenleiter, is to establish for the Alsaciens abowe the age of 18, even if their membership has not been obtained within the framework of the action --" The word "qui" has been omitted in the text. "who are to be considered as future members of the Party, of its subdivisions and of the group connected with it; who are, moreover, the men between the ages of 17 and 48 who may be employed in an active manner in the Party or in its subdivisions. These evaluations are equally to include, in order that we may soon obtain a view of the whole, the persons already enrolled in the Party, in the Opferring -- " This is the collecting organization for the Party. "-- its subdivisions and affiliated groups. The Kreisleiter may call upon the collaboration of the Kreisorganizationsleiter--" These are the organizing directors of the arrondissement. "--and of the Kreispersonalamtsleiter---" The personnel informatuion bureau of the arrondissement. "The 19 June action, organized with a view to recruiting members, must not because of this be put into a second category, but must be carried on by all means toward the purpose indicate by the Director of the Gau, and must be concluded at the date specified.

"The results of the investigation of the population are to be set out in five lists; namely:

H0050 - 0047

"List 1 a

"List 1 b

"List 2 a

"List 2 b

"Control list."

I shall skip over the following paragraphs, which are a little long and purely administrative, and I shall continue on page 2 of the document, paragraph 9.

"The objective of the National Socialist movement being that of putting all Germans into a National Socialist organization in order to be able to influence and the lead them in toward the ends of the movement, it will be necessary to feature on List 1(a) and (b), 2(a) and (b), ninety percent of the population, and on the control list solely those who shall have been considered unworthy of belonging to an organization led or supported by the Party; namely, persons of inferior race of Germanophobes.".

I shall now enter upon the two most serious questions which are directly connected, questions which, on the one hand, concern nationality, and, on the other hand, military recruiting.

The German policy in the matter of nationality reveals certain hesitation, and this hesitation is related to the German policy in regard to military recruiting. Indeed, the German leaders seem to have been drawn by two contradictory trends. One of these trends was that of conferring nationality very broadly, and this in order to impose in a corresponding manner the obligation of serving in the army. The other trend was that of conferring nationality only with discernment. In this view, it was considered, first of all, that nationality is an honor, and that in regard to persons who did not possess it to begin with it should, to a certain extent, constitute a reward. On the other hand, nationality gives to the one who possesses it a certain special quality. It gives the person, in spite of the abolition of all democracy, a certain element of influence in the German community. It should therefore be granted only to persons who give guarantees in this regard and wh are not likely to abuse it.

H0050 -0048

These are guarantees of loyalty (and we know that in the German conception loyalty is not only a choice of spirit, but that it is inherent in the appraisal of physical qualities. The well-known qualities are elements of blood, of race, and of origin).

These are the two opposed trends of the policy of Germany, in regard to nationality. This is how these developed:

For an initial period, until the month of August, 1942, the Reich, not yet feeling need for manpower as great as what they were to feel later, deferred the institution of obligatory recruiting. In a parallel manner, they deferred a general imposition of nationality. During this first period the Nazis, not making any obligatory recruitments, simply appealed to voluntary recruiting, which, however, they tried to increase by all manners of inducement and of pressure.

I shall not go into the detail of these German procedures with regard to voluntary recruitment. I should like simply to give by way of example the subject matter of document 733. It is an appeal that was posted in Alsace on the 15th of January, 1942. It constitutes one of the appendices of the governmental report, which was submitted under No. 472. In this document, I shall read simply the first sentence of the second paragraph:

"Alsatians: Since the beginning of the battles in the East, hundreds of Alsatians have freely decided to march as volunteers side by side with the men of other German regions against the enemy of civilization and of European culture, etc."

For anyone who knows the German propaganda and its technique of exaggeration, the term "hundreds", which is used in this document, is quite revealing of the failure which the Nazi recruiters had encountered. "Hundreds" must obviously be translated by tens, and it must be recognized that this was a very poor supply for the Wehrmacht.

During the period that I am speaking of the Nazis practised in regard to nationality a policy similar to that of its policy of recruitment for the military forces. They appealed to the volunteers of nationality. It is desirable to quote in this regard an ordinance of 20 January 1942, a general ordinance of the Reich, and not a special text, that was directed at the

H0050 - 0049

annexed territories. This ordinance, in its first article, widens the possibilities of naturalization in connection with conditions which, until then, had been very narrow for the Empire statute book, and in Article 3 it gives the following provision. This ordinance is not produced in the document book, for it is an ordinance of the German Empire and, therefore, a public document:

"The Empire Minister of the Interior may grant German nationality by means of a general regulation to categories of strangers established on a territory placed under the sovereign power of Germany or one having his origin in such territory."

Still, in connection with this first period, it is necessary to stress tha the Alsatians and the Lorrainians who did not become German citizens did not for that keep their French nationality. They are all considered as German subjects. They are qualified in the documents of the period as members of the German community. This natably entails the consequence that theyare subject to the German labor service. I submit document 734 in this connection, regulation of 27 August 1942, on obligatory military service and on labor service in Alsace. I shall return to this document presently as concerns military service, but I would like to quote immediately the text relative to service in the Hitler Youth, the ordinance of the 2nd of January 1942 for Alsace, and ordinance of the 4th of August 1942 for Lorraine.

The German policy of nationality and of military recruiting comes to a turning point in the month of August 1942. At this moment, under the pressure of the military difficulties and of the necessity for extensive recruiting, th Germans instituted obligatory military service in Lorraine by an ordinance of the 19th of August 1942, and in Alsace by an ordinance of the 25th of August 1942. These two ordinances, relative to the setting up of obligatory military service, constitute document 735, ordinance for Lorraine, and document 736, ordinance for Alsace.

At the same time the Germans promulgated an ordinance of 23 August 1942 o German nationality in Alsace, in Lorraine, and in Luxembourg. This text is th subject of a circular of the Minister of Empire, which constitutes document No 737. I should like simply to summarize for the Tribunal the provisions of the various texts, which it would take long to read. These provisions are the

H0050 - 0050

following:

German nationality is acquired in full right for the Alsatians, the Lorrainians, and the Luxembourgers in the following cases: First, when they have been or will be called to serve in the armed forces of the Reich or in the SS armed formations; second,

H0050 - 0051

when they are recognized as having acted as good Germans. As concerns the expression "of German origin," which is used in these tects, this concerns Alsations and Lorrainians who either have become French through the Treaty of Versailles or who have become French subsequently on the condition of having previously been German nationals, or on condition of having transferred their domicile from Alsace or from Lorraine to the territory of the Reich after 1st September 1939; and, finally, likewise considered as of German origin, are children, grandchildren, and spouses of the preceding categories of persons.

In the last place, it was anticipated that the Alsatians and Lorrainians and the Luxembourgers who did not acquire German nationality in an absolute manner could obtain it subject to revocation.

I should like to mention, to complete this question of nationality, that an ordinance of the 2nd February 1942 gave details as to the German laws on nationality applicable in Alsace, and that an ordinance of the 2nd November 1942 likewise gave German nationality to persons who had been in concentration camps during the time of war. The German texts indicate that, on the one hand, German nationality was imposed upon a great number of persons; and, on the other hand, that the Alsatians and the Lorrainians who were French were obliged to the exorbitant requirements and the truly criminal requirements of military service in the German army against their own country.

These military obligations were constantly extended by the call of successive classes, going even to the class of 1908.

These German exigencies provoked a solemn protest on the part of the French National Committee, which in London represented the Free French public authority. I should like to read to the Tribunal the text of this protest, which is dated 16 September 1942, and which I submit as document 739. I shall simply read the three paragraphs of the official protest, which constitutes the beginning of this document.

"Information Service of London:

"After having proclaimed in the course of the war the annexation of Alsace and of Lorraine, banished and stripped a great number of inhabitants,

H0050 - 0052

taken the most rigorous measures of Germanization, the Reich now constrains Alsatians and Lorrainians, declared German by the Reich, to serve in the German armies against their own compatriots and against the allies of France.

"The National Committee, defender of the integrity and of the unity of France, and trustee of the principle of rights of peoples, protests, in the face of the civilized world, against these new crimes committeed in contempt of international convention against the will of populations ardently attached to France.

"It proclaims as inviolable the right of Alsatians and of Lorrainians to remain members of the French family."

This protest could not be ignored by the Germans, for it was on a number of occasions read and commented on over the radio by the French National Commissioner of Justice, Professor Rene Cassin.

In regard to this solemn protest of France, I shall allow myself to quote the justifications, if one may use this term, which were furnished in a speech of the Gauleiter Wagner delivered in Colmar on the 20th of June 1943. This quotation is drawn from the Muehlhauser Tageblatt of 21 June 1943. In view of its importance I shall not deal with it simply as a quotation, but I produce it as a document and submit it as document No.740. The paper itself is with the Tribunal. I read the explanations of the Gauleiter Wagner, as they are reproduced in this newspaper under the title "Alsace will not Stand Apart":

"The decisive event for Alsace in 1942 was thus the introduction of obligatory military service. It cannot be part of my intention to justify from the juridical point of view a measure which strikes so deeply at the life of Alsace. There is no reason for making such a justification. Every decision which here touches the Greater German Reich is motivated and cannot be attacked as to its juridical form and its de facto form."

Naturally, the Alsatians and the Lorrainians refused to accept the criminal orders of the German authorities, and they undertook to avoid these by every means. The Nazis then decided to oblige them by pitiless measures. The frontiers were severely guarded, and the guards had orders to fire on

H0050 - 0053

the numerous recalcitrants who attempted to escape and cross the borders. I should like to quote in this connection a sentence from a newspaper article, which is an article from the Dernieres Nouvelles de Strassbourg of the 28th of August 1942. This is document 741. This article relates the death of one of these men who refused to serve in the German army, and it concludes with the following sentence: "We insist quite particularly on the fact that the attempt to cross the frontier illegally is a suicidal attempt."

Naturally, the judicial penalties provided were applied with greater severity in a great number of cases. I do not consider that I should bring to the Tribunal all the instances of these cases, which would be too long, but I should like simply to insist on the principle that governed this form of repression. I shall quote first of all a document which is quite characteristic of the conception which the German administration had of justice, and of the independence of judicial power. This is document 742. It is a part of a series of documents discovered in the Gauleitung's files. It is a teletype message dated Strasbourg, the 8th of June 1944, addressed by the Gauleiter Wagner to the Chief of the Court of Appeals of Karlsruhe. Its date is 8 June 1944. I shall read paragraph 2 of this document, which is on page 1 of the same document:

"It is particularly necessary in Alsace that the penalties pronounced against those who refuse to do military service shall produce an effect of intimidation, but the effect of intimidation cannot be obtained in the fear of personal danger to those who refuse to act, but the effect of intimidation can be achieved by the death penalty. All the more so, an Alsatian who emigrates with the intention of escaping military service generally counts on a forthcoming victory of the enemy powers and counts, in case of conviction on a penalty of deprivation of freedom and upon an imminent conclusion of the penalty. Consequently, for all attempts of illegal emigration, after the 6th of June 1944, in order to escape military service, it is required, aside from any other judicial practice in the old Reich, and in principle to apply the penalty of death, which is the only penalty provided."

H0050 - 0054

But I shall wish to indicate that the consideration of personal risk, however great it might be, even that of being killed at the frontier or being condemned to death, could not be sufficient to make the Alsatians and the Lorrainians accept the military obligation. Thus the Nazis decided to have recourse to the only threat which could be effective. That was the threat of reprisals against families. From the 4th of September 1942, on, one could read in the Derniers Nouvelles de Strasbourg a notice entitled "Severe Sanctions against those who Neglect to Appear before the Revision Council". An extract from this notice constitutes document 743. I shall read from it:

"In the cases mentioned above it has been demonstrated that the parents have not given proof of authority in this regard. They have proved thereby that they have not yet understood the requirements of the present time, which can tolerate in Alsace only reliable persons. The parents of the above-named young men will therefore shortly be deported to the Altreich in order to acquire once more, in a center of National Socialists, an attitude in conformity with the German spirit."

Thus the deportation of families was provided, not to punish a definite subordination, but now to sanction the failure to appear before the recruitment board.

In order to avoid repeated readings, I shall now present to the Tribunal under the heading of document No. 744, the ordinance of the 1st October 1943, for the repression for refusal to perform military service, official bulletin of 1943, page 152, I shall read the first two articles:

"Article 1: The chief of the civil administration in Alsace may forbid residence in Alsace to deserters and to persons who fail to fulfill their military obligations or those of the obligatory labor service, as well as to members of their families. This prohibition of residence entails for persons of German origin who are affected by it their transplantation to the territory of the Empire through the delegate of the chief of the SS of the Empire, commissioner of empire for the strengthening of Germanism. The measures regarding property seizure, indemnity, etc. are regulated by the

H0050 - 0055

ordinance of the 2nd February 1943, concerning the regime of property of persons of German origin transplanted from Alsace to the territory of the Empire.

"2. Independently of the preceding measures, penal prosecution may be brought for violation of the provisions of the penal laws."

THE PRESIDENT: Exactly what did "German origin" mean? How far did it go?

M. FAURE: The term "souche Allemande", German origin, applies, as indicated in connection with the preceding text to the categories of persons who are in the following conditions: In the first place, persons who were in Alsace and Lorraine before the Treaty of Versailles and who became French by the Treaty; those persons who had German nationality before 1919 are considered as of German origin, as well as their children, their grandchildren, and their spouses. This involves a great majority of the population of the three departments.

I continue reading paragraph 2 of the first article of document 744.

"Independently of the measures which precede, penal prosecutions may be brought for violation of the provisions of the penal laws. The members of the family, in the sense of Article 52, paragraph 2, of the Empire Penal Code, who bring proof of their serious efforts to prevent or dissuade the fugitive from committing his act, or avoiding the necessity of flight, shall not be punishable."

These abominable measures - the obligation of denunciation, of punishment inflicted upon the families - permitted the German authorities to bring about the enrolling of Alsatians and of Lorrainians, which for many of them had fatal consequences and which was for all of them a particularly tragic trial.

I must finally indicate, to conclude this part, that the Germans proceeded to the mobilization of women for war work. I produce as document 745 the ordinance of the 26th of January 1942, completing the war organization of the service of labor for the young women of Lorraine. We find an ordinance of the 2nd of February 1943, concerning the declaration of men

H0050 - 0056

and women for the accomplishment of tasks of interest to national defense. This is taken from the German official bulletin, 1943, page 26. This ordinance is relative to Alsace. The following document, 747, deals with Lorraine. This is an ordinance of 8 February 1943, concerning the declaration of men and women for tasks concerning the organization of labor. The Tribunal will note that the ordinance concerning Alsace had the expression "tasks of interest to national defense", whereas the ordinance relative to Lorrain specifies simply "concerning declaration of men and women for tasks concerning the organization of labor", but in principle these are the same. Article 1 of this second ordinance, document 747, has reference to the ordinance of the General Delegate for the Organization of Labor, relative to the declaration of men and women for tasks of interest to national defense, etc. It is thus a question of making not only men but women work for the German war effort. I shall read for the Tribunal an extract from a newspaper article which comments on this legislation and which comments likewise on the measures which the Gauleiter Wagner proposes to undertake in this connection. This constitutes document 748, taken from the newspaper Dernieres Nouvelles de Strasbourg, dated 23 February 1943.

"In his Karlsruhe speech the Gauleiter Robert Wagner stressed that measures of total moblization would be applied to Alsace, and that the authorities would abstain from any bureaucratic chicanery.

H0050 – 0057

The Alsatian labor offices have already invited the first category of mobilizable young women to fill out the application blanks.

Here is the second passage of the same article.

"In principle, all the women who until the present have worked only at home, who have had to occupy themselves only with their husbands and who had no other relative, shall work a full day. Many married persons who until then had never offered to help their women in the household work will be obliged to put their shoulder to the wheel. They will work in the household and do errands. With a little goodwill, everything will work out. The women who have received a professional education shall be put, if possible, into tasks that relate to their professions, on condition that they have an important bearing on the war effort. This prescription applies only to all feminine professions which imply care given to other persons."

Here again a rather comical presentation should not prevent one from perceiving the odious character of these measures, which oblige French women to work for the German war effort.

THE PRESIDENT: We will adjourn now for ten minutes.

(A recess was taken from 15.30 to 15.40 hours.)

M. FAURE: Mr. Dodd would like to speak to the Tribunal concerning a question he wishes to put to the Tribunal.

MR. DODD: Mr. President, I ask to be heard briefly to inform this Tribunal that the affiant Andreas Pfaffenberger, whom the Tribunal directed the Prosecution for the United States to locate, if possible, has been located yesterday and he is here in Nurnberg today. He is available for the cross-examination which, if I remember correctly, was requested by Counsel for the Defendant Kaltenbrunner.

THE PRESIDENT: Was his affidavit read?

MR. DODD: Yes, your Honor, it was.

THE PRESIDENT: It was read, was it?

MR. DODD: It was read.

THE PRESIDENT: It was read.

THE PRESIDENT: And on the condition that if he should be brought here for cross-examination?

MR. DODD: Yes, sir. He asked him to be brought, if I recall it.

THE PRESIDENT: Does Counsel for Kaltenbrunner wish to cross-examine him now--I mean, not this moment--does he still wish to cross-examine him?

DR. KAUFFMAN (Counsel for Defendant Kaltenbrunner): I believe that the Defendant Kaltenbrunner would not need the testimony of this witness. However, I would have to take this question up with him once more, for up until this time it was not certain that Kaltenbrunner would be in court, and if he is to be cross-examined and to testify, I believe Kaltenbrunner would have to be present at the hearing.

THE PRESIDENT: It seems somewhat unfortunate that the witness should be brought here for cross-examination and that then you should be saying that you don't want to cross-examine him, after reading the affidavit. It seems to me that the reasonable thing to do would be to make up your mind whether you do, or do not, want to cross-examine him, and I should have thought that would have been done and he would have been brought here if you want to cross-examine and not brought here if you did not want to cross-examine. Anyway, as he has been brought here now, it seems to me that if you want to cross-examine him you must do so. Mr. Dodd, can he be kept here for some time?

MR. DODD: He can your Honor, except that he was in a concentration camp for six years, and we have to keep him here under certain security, and it is somewhat of a hardship on him to be kept too long. We would like not to keep him any longer than necessary. We located him with some difficulty in the United States Forces.

DR. KAUFFMANN: In perhaps two or three days we might wish to cross-examine; perhaps two or three days.

THE PRESIDENT: I imagine that if after the affidavit had been read that you demanded to cross-examine him and that he has therefore been produced--well, in those circumstances it seems to me unreasonable

H0050 - 0058

H0050 - 0059

that you should ask that he should now be kept for two or three days when he is produced. Mr. Dodd, would it be possible to keep him here until Monday?

MR. DODD: Yes, he can be kept here until Monday.

THE PRESIDENT: We will keep him here until Monday, and you can cross-examine as you wish. You understand what I mean; when an affidavit has been put in and one of the Defense Counsel said that he wants to cross-examine him, he ought to inform the Prosecution if, after reading and considering the affidavit they find that they don't want to cross-examine him; they ought to inform the Prosecution so as to avoid all the cost and trouble of bringing a witness from some distance off. Do you follow?

DR. KAUFFMANN: Very well, and thank you very much. Then I will proceed with the cross-examination on Monday.

THE PRESIDENT: Yes.

M. FAURE: Mr. President, I would ask the Tribunal whether they would agree to hear the witness Emil Reuter at this point?

(EMIL REUTER, a witness on behalf of the French Prosecution, takes the stand.)

THE PRESIDENT: What is your name?

THE WITNESS: Reuter, Emil.

THE PRESIDENT: Emil Reuter, do you swear to speak without hate nor fear, to say the truth, all the truth, only the truth? Raise the right hand and say, "I swear."

(The witness answered in French.)

THE PRESIDENT: You may sit down.

DIRECT EXAMINATION.

BY M. FAURE:

Q Mr. Reuter, you were a lawyer of the Luxembourg Bar?

A Yes.

Q You are President of the Chamber of Deputies in Luxembourg?

A Yes.

H0050 - 0060

Q You had been exercising these functions at the time of the invasion of Grand Duchy of Luxembourg by the German troops?

A Yes.

Q Can you give us any indication on the fact that the Government of the Reich had a few days before the invasion of Luxembourg given to the Government of the Grand Duchy assurances of its specific intentions?

A Already in the month of August 1939 the Minister for Germany in Luxembourg gave to the Minister of Foreign Affairs of the country a statement according to which the German Reich, in the event of an European war, would respect the independence and neutrality of the country, provided that the Luxembourg Grand Duchy should not violate its own neutrality. A few days before the invasion, in the month of May, 1940, the Germans constructed pontoon bridges through half of the Moselle River which separates the two countries. An explanation from the Minister for Germany in Luxembourg had for its purpose to represent such construction of pontoon bridges as landing in the interest of navigation. In the general view of public opinion, these invasions were really of a military character.

Q Can you state about the situation of public authorities in Luxembourg, following the departure of Her Royal Highness, Madame the Grand Duchess, and of her Government?

A The continuity of general administration of the country was insured by a government commission which possessed the necessary powers which had been bestowed upon it by the competent constitutional authorities. There was, therefore, no stopping of the power.

Q Is it not true, however, that the Germans pretended--is it not true that the Germans claimed upon their arrival in that country that the Government had failed to carry out its functions, and following the departure of the Government there was no regular authority in the Grand Duchy of Luxembourg?

A Yes, indeed; the Germans did make such a declaration. The

H0050 - 0061

Minister of the Reich in Luxembourg made that statement before a Parliamentary Commission.

Q Do I understand correctly that these statements on the part of the German authorities did not in fact correspond to the truth inasmuch as you have told us that there did exist an organization for the administration of the country?

A This statement did not correspond to the reality. It was obviously that of a usurping authority.

Q Mr. Reuter, the Germans never proclaimed by law the annexation of Luxembourg. Do you consider that the totalitarian measure adopted by the Germans in that country was equivalent to annexation?

A The measures that were taken by the Germans in the Grand Duchy of Luxembourg were obviously equivalent to an annexation of that country. A few days after the invasion the leaders of the Reich in Luxembourg stated in public and official speeches that the annexation by law would occur at a time which would be freely selected by the Fuehrer. The proof of this de facto annexation is shown in a neat and clear manner from the whole series of ordinances which the Germans published in the Grand Duchy.

Q The Germans organized in Luxembourg an operation which was called "Census." In the formula that was placed before the inhabitants of Luxembourg to effect the census, there was one question concerning language, the maternal or usual language, and also another question as to the racial background of the individual. Are you prepared to assert that in view of these two questions this census was considered as having the character of a plebiscite?

A According to the instructions which were published by the German authorities in connection with this census, it appeared that the political purpose was obvious; therefore public opinion never envisages this census except as a sort of attempt to achieve a camouflaged plebiscite and to effect by this census a political

H0050 - 0062

operation which would give the appearance of justification to the annexation which was then being considered.

Q The report of the Luxembourg Government does not give any indication concerning the results of statistical results of this census, specifically with regard to the political question of which I spoke a moment ago. Would you be kind enough to tell us why the statistical data is not now possible to find in any document?

A The statistical indication has never been gathered in a complete manner because of the fact that in a partial examination of the first result the German authorities noted that there was an infinitesimal fraction of the population who had answered to the true situation of this question in the sense in which the Germans spoke of it. The German authorities then preferred to stop the operation, and a questionnaire distributed in the country does not obtain the results which had been answered, and if started which was not collected.

Q Do you remember the date of the census?

A This census should be situated in 1942.

Q At the time of the census the Germans then could know that there was no majority of even an immediate part of the population which were desirous of being incorporated in the German Empire. However, did the date continue through measures of annexation?

A Measures tending to Germanization, and later to invasion of the country, were continued, and later on they were accompanied by publication, and that there were measures more and more accentuated.

Q Am I to understand, therefore, that during the application of these measures the Germans could not be ignorant of the opposite will of the Luxembourg population?

A There can be no doubt at all on this question.

Q Can you tell us whether it was exactly correct that the German authorities obliged members of the gendarme force, or the police, to give an oath of allegiance to the Chancellor of the Reich?

H0050 - 0063

A Yes. This constraint was demanded with respect to the gendarme, and the policemen with threats, very serious threats, and even recalcitrants, or any one who disobeyed were deported. Usually during the first month of Unsetzung, and when the German Army operated, the recalcitrants who were in the camp had been either completely oriented, or part shot to the extent of about fifty.

Q Can you give us any indication concerning the transplanting--I believe the Germans call it "umsetzung"--of a certain number of inhabitants, and families living in your country?

A The transplanting was the hording by the German authority of Luxembourg elements who sent unworthies and undesirables as of being incorporated in the frontier marches of the Reich.

Q Can you indicate the approximate number of people who were victims of this transplanting?

A There must have been about 7000 people who were transplanted in this manner, because we found in Luxembourg a list mentioning 2900 homes or families.

Q This indication so far as you know came to you as a result of your functions as President of the Chancellery of Deputies?

A Not exactly, but the result of which I saw at Luxembourg from a list which is still deposited at the office of War Minister and the document of the story would be filed with the Federal Authority of Luxembourg.

Q Can you state, Mr. Reuter, how the people who were transplanted were informed of this measure concerning them, and within what period they had to be ready, generally speaking?

H0050 - 0064

A The families which were to be transported away never were given pre-warning, nor officially so. Say about ten o'clock in the morning the agents, or gestapo, rang at the door, and they notified those who were selected to be ready for departure within one or two hours; forcing them to take with them the minimum of luggage; then they were transferred to the station and embarked on a train to the destination, or the camp to which they were at first to be sent.

Q Can you give us exactly who they were, whether any people you knew personally?

A I knew them personally. I knew personally there were a large number of people who were transplanted, among them members of my own family, a great number of the colleagues of the Chamber of Deputies, and many members of the Bar, and a lot of other people, etc.

Q In addition to transfers, there were deportations to camps of concentration? This is a different question.

A Yes, there were deportations to concentration camps which everyone knew about. The number of such deportations in the Grand Duchy may be approximately four thousand.

Q Mr. Reuter, has there not been established, by its virtue, an ordinance by which the German authorities prescribed compulsory military service, such therefore -- I will not ask you any question on this particular point. However, I would like to ask you whether you are able to state approximately the number of Luxembourg citizens who were enrolled in the German Army, or of young people who were incorporated by force in the German Army?

A In the German Army belonged about five classes, and beginning with the class of 1920 say the number is about eleven thousand to twelve thousand at least. A certain number of them, I consider about one-third, succeeded in avoiding conscription, and were considered as rebels. They succeeded to escape, and they went away.

Q Can you indicate the approximate number of Luxembourgers who died as a result of their forced enrollment, and who died ultimately?

A At the end of September 1944 we had discovered about two thousand five hundred dead, and research has continued, and we have established at

H0050 - 0065

least about three thousand casualties and dead.

Q The instructions that had been provided to force enrolling of the Luxembourgers, were they severe?

A Several instructions were extremely severe. First of all, the young people who were refractory were pursued and hunted by the police, and by the Gestapo. Then they were brought before various types of Tribunals, either in Luxembourg, or in France, or in Belgium, or in Germany. Their families were deported also; the fortune of their family was confiscated. The penalties practiced and enforced by the Tribunals against these young people were likewise extreme in their recurrence, and that there were penalties of death, generally speaking, imprisonment, forced labor, deportation to concentration camps. Some of those usually obtained mercy later on, and there were some who were shot after having obtained a pardon.

Q I would like to ask one last question. Do you think it is possible with the fatality of the measure, which constituted a deportation of Luxembourgers, that could have been ignored as to any of the people who belonged to the Reich Government, or to the German High Command?

A I believe that it is difficult to admit that such a situation could have been ignored by the members of the Reich and by the Supreme Military Authority. My point is based on the following facts: First of all, young people who were mobilized by force frequently protested at the time of their arrival in the German Army in Germany by invoking the fact that they were all of Luxembourg nationality, and by force each there were made the victim, so that the military authorities must have been informed of the situation in the Grand Duchy. In the second place, several Ministers of the Reich, among them Thierack and Mr. Ley, paid visits to the Grand Duchy of Luxembourg, and could discover the situation of the country under reaction of the population, and those officials under the political personality of the Reich came also in visits. the Reichministers, such as Bormann and Sauckel and families.

There were decrees and ordinances passed and constructed, concerning the denationalization of certain categories of Luxembourg citizens. These ordinances bore the signature of the Minister of the Reich. All these measures, and the execution of all of these ordinances were published in the Amtsblatt, a military fuer das innenministerium, "A innenamtlich an alle oberen Reichs-

H0050 - 0066

stellen," and were still under the signature of the Minister of Interior Frick, with the indication that the inceptions were to be communicated to all the superior authorities in the Reich.

M. FAURE: I thank you. That is all the questioning I have to put to you.

THE PRESIDENT: Is there any member of the defendants' counsel who wishes to ask the witness any questions. (No response) Then the witness can retire. One moment. Then the witness can retire.

M. FAURE: Mr. President, am I to understand that the witness will not have to remain any longer at the disposal of the Tribunal and he may return to his home?

THE PRESIDENT: Certainly.

M. FAURE: I had stopped my presentation at the end of the second part. That is to say, I have therefore examined so far, in the first place, the elimination of the French information and, second, the imposition of German rules.

I now come to the third part, which pertains to the measures for transport and colonization within Alsace-Lorraine. The German authorities applied in the departments that were annexed their characteristic methods for the transport of populations. It so happens that, as I have already stated earlier, sooner than I had anticipated, the testimony of Luxembourg is already shown of the aspect which these measures of transfers assumed in the annexed territories. The situation which I am about to indicate with respect to Alsace-Lorraine is indeed analogous to the situation which has been explained with regard to the Grand Duchy of Luxembourg. The application of such methods by the Germans had for their principal purpose to enable them to colonize with the German people by bringing such Germans into the country, who then seized the lands and the property of the inhabitants which had been expelled. A second advantage was the elimination of groups who were considered especially difficult to assimilate. I should like to quote in this connection -- this will be document 749 -- what Gauleiter Wagner has stated in a speech given at Saverne, which I am quoting according to the Dernieres Nouvelles, Strasbourg, of 15 November 1942.

H0050 - 0067

"Today we must make up our mind. At a period of supreme struggle for the nation, the struggle in which you, too, must participate, I can only say to anyone who states that I am a Frenchman. I can state only one thing: Get the hell out! In Germany there is room only for Germans."

From the very beginning the Germans proceeded, first, to individual expulsion or by small groups concerning specifically the Jews and members of the teaching profession. Moreover, it is shown by a document which I have already cited this morning under No. 701, and which was the first general protest made by the French delegation, under date of 3 September 1940, and it was shown from the text already read that the Germans authorized the Alsatians and Lorrainers to return to their homes only if they acknowledged themselves to be of German origin. Now, the Tribunal will understand that restrictions placed upon the return of refugees were equivalent to the same result as expulsions themselves. The mass expulsions began in September 1940. I now submit in this connection document 750; It is once more a note from the French delegation for the armistice which has been taken from a high court of justice files. I am now reading this document on paragraph 2.

"Since then it has been brought to the knowledge of the French Government that German authorities are proceeding to carry out mass expulsions of families who have been settled in the three departments of the East. Every day French citizens who are forced to abandon on the spot all of their belongings are driven to the part of France which is unoccupied in groups of 800 to 1,000 persons."

We are only on the 19th of September as yet. On the 3rd of November the Germans undertook a systematic operation for the expulsion of the populations of Moselle. This operation was accomplished with extreme perfidy. The Germans, as a matter of fact, first visited the Lorrainers in certain localities where they gave them the choice of either going to eastern Germany or of going into France. They gave them only a few hours to make up their minds. Moreover, they sought to promote the belief that such a choice was imposed upon the Lorrainers as a result of an agreement reached with the French authorities. From the material point of view, the transport of these people was effected under very difficult conditions. The Lorrainers were allowed to

H0050 - 0068

take away only a very small bit of their personal belongings and a sum of 2,000 francs, 1,000 francs in the case of each child.

On the date of 18th November, four trains filled with Lorrainers who had been seized away from their homes had thus been directed to Lyons. The arrival in unoccupied France of these people who had been so gravely tried was nevertheless for them the occasion of manifesting nobly their patriotic sentiments. On the whole, the facts which I have submitted I place before the Tribunal, document No.751, which is a note of protest on the part of the French delegation over the signature of General Doyen, dated 18 November 1940. I shall read excerpts of this document 751, beginning with paragraph 3 of page 1.

"France is faced with an act of force which is in formal contradiction both with armistice convention as well as with the assurances recently given for a desire of collaboration between the two countries, or quite the contrary. In Article 16, which the German commission had frequently invoked with regard to, specifically, the departments of the East, the armistice convention stipulates the reinstallation of refugees in the regions in which they were domiciled. The creation of new refugees constitutes, therefore, a violation of the armistice convention. France is faced with an unjust act which is striking peaceful populations against whom the Reich has nothing to reproach and who hadn't been settled for centuries, on these territories have made of them a particularly prosperous region. The unexpected decision of the German authorities is likewise an inhuman act. In the very middle of winter, without warning, families had to leave their homes, taking away only a strict minimum of personal property and a sum of money absolutely insufficient to enable them to live even for only a few weeks. Thousands of Frenchmen who were thus suddenly hurled into misery without their country, already so heavily tried and surprised by the suddenness and amplitude of the measures adopted without its knowing of it, should be in a position of insuring for them from one day to the next a normal life. This exodus and the conditions under which it took place brought about the most painful and sorrowful impressions throughout the French nation. The French people were particularly disturbed by the statements that were given to the Lorrainers and, according to which the French Government was reputed to be the source of their misfortune.

H0050 - 0069

"That was what, in fact, the text which was posted sought to make belief amongst the population that was called upon to choose between leaving towards the east of Germany or leaving" -- the word "departement" has been used in the text; it should have been 'departe' --"to the east of Germany or departure to unoccupied France. The poster is appended hereto, but we are not in possession of the text of this poster. It is also what might be the impression that might be given by the affirmation that these populations had requested themselves for the authorization to leave, following the appeal having been disseminated by the radio of Bordeaux. Even if we admit that such appeals had been made, it should be noted that the Bordeaux radio station was under German control. The good faith of the Lorrainers has been deceived as has been shown by their reaction upon their arrival in the free zone."

H0050 - 0070

In spite of these protests, expulsions continued. They reached a total figure of about 70,000 people. They were doubled by the deportation of Alsatians and Lorrainers to Eastern Germany and to Poland. These deportations had the object of creating terror and they particularly struck the families of the men who had rightfully decided to refuse the German demand concerning forced labor and military service.

Since I don't wish to be reading too much to the Tribunal, I submit texts dealing with an identical subject. I submit this document solely to show that this protest was made, and I believe that I can do that without reading its full content.

I shall refer, being only the echo of the citation, to a document belonging to the American Prosecution. This document has the number R-114. It is a memorandum containing the minutes of a meeting which took place between several officials of the SS concerning the general direction to be given in regard to the treatment of the Alsatians who were deported. It will be observed that this document has already been submitted by my American colleagues under No. R-114, U.S.A., French No. 753. I merely wish to read from that document one paragraph, which may be interpreted as a supplement to this problem of deportation. I must say that these sentences have not been formally read in Court. The passage that I cite is on page 2 of the document. At the end of that page 2 we have a paragraph which begins with the letter "B":

"The following persons shall be listed for future deportation" -- this is a citation -- "The Gauleiter does not wish to keep in his district people who speak a patois, only the people who adhere to Germanism in their customs, their language and their general attitude, according to the cases provided for in paragraph (a) and (b) above. It should be noted that we shall first examine the problem of the race and that we shall do so in such a manner that people having a racial value will be deported to Germany Proper and the people of inferior racial value should be deported to France."

Finally, I should like to read to the Tribunal a few sentences from a newspaper article, in the last issues of "News of Strasbourg," August 31, 1942 -- we are here dealing with a citation and not a document:

H0050 - 0071

"On the 28th of August the families designated hereafter named, of the Arrondissements of Mulhouse and Guebwiller were deported to the Reich in order that they may again find a solid German attitude in a surrounding of united National Socialism. In several cases the persons involved were those who did not conceal their hostility in that they provoked opposition, speaking French publicly in a provocative fashion, did not submit to the ordinances concerning the education of youth, or in other circumstances have shown a lack of loyalty."

I would now like to indicate to the Tribunal that the deportation or transportation had for their consequence the spoliation of property. This is not merely a fact; for the Germans it is a law. Indeed, there is an ordinance, of 29 January, 1943, which appeared in the official bulletin of 1943, page 40, bearing the title, "Concerning the Safeguarding of Property in Lorraine as a Result of Transplantation Measures." I have placed this ordinance before you as Document 754. I would like to read Article One and the first paragraph of Article Two. I believe that the text is sufficiently clear:

"Article One. The safeguarding of property of people who were transplanted from Lorraine into the Greater German Empire or in a territory placed under the sovereign power of Germany has been entrusted to the Transfer Services for Lorraine attached to the Chief of the Administration.

"Article Two. These Services are authorized to place under effective safeguarding, the property of the Lorrainers who have been transplanted in order to administer such property, and in so far as the orders may have been given therefore, to exploit them."

This ordinance, therefore, still manifests some formal scruples. The effort is to "safeguard," but we now know what the word "safeguard" means in Nazi terminology. We have already seen what safeguarding of objects of art has meant, and of Jewish property. Even here, we have been specifically warned that to "safeguard" gives the right to dispose of or exploit. Other texts are even more specific or clear.

H0050 - 0072

Here is Document No. 755. This is the ordinance of 6 November, 1940, pertaining to the declaration of property of the enemies of the people and of the Empire, in Lorraine. And I shall also submit to you Document No. 756 on the same subject, which is the regulation of 13 July 1940, applying to the enemy property of the people and of the Empire, in Alsace. These two texts, one of which pertains to Alsace and the other to Lorraine, make possible the seizure and confiscation of properties which are designated as "enemy property." Now, to realize the extent of the property so designated, I will read Document 756:

"There will be considered as property belonging to the people and to the Empire, any objects and rights of any nature whatsoever, without regard to the conditions of title, which are utilized for or intended for use in activities hostile toward the people of Germany or the Empire. Such stipulation shall apply to the whole public property:

"(a) of all political parties, as well as the property of secondary organizations or complementary organizations depending on these parties;

"(b) lodges and similar associations;

"(c) the Jews;

"(d) Frenchmen who have acquired property in Alsace since 11 November 1918.

"(e) the Chief of the Department of the Administration of Police will decide, in addition to the property mentioned above, what is public property which is likewise to be considered enemy property -- inimical to the people and to the Empire. He will likewise decide on doubtful cases."

We see therefore that in spite of the title we are not here faced with measures of sequestration of enemy property which are taken in all countries within the scope of the laws of war. First of all, these are confiscation measures. And in addition, they are applied to the property of numerous individuals who are in no wise subjects of the enemy countries. We also see at this point the absolutely arbitrary power which is left in the hands of the administration. These texts conclude with a regulation which is extremely fullsome.

H0050 - 0073

Although the spoliations have a particularly important character in Alsace and in Lorraine, I shall not speak of them here in more detail, inasmuch as the Prosecution has already dealt with the general subject of spoliation. I shall merely limit myself to the mention of two institutions which are special to Alsace and to Lorraine. That is, agricultural colonization, and on the other hand, industrial colonization.

In the first place, agricultural colonization is not a term that has been invented by the Prosecution. It isthe very expression which the Germans used. And I submit in this connection, Document No. 757, which is the ordinance of 7 December 1940, "pertaining to the new regime of settlement or colonization in Lorraine." I shall read the beginning of this Document No. 757:

"Real estate which has been vacated in Lorraine as a result of deportations will serve principally for the reconstitution of a German peasantry and for the requirements for billeting or lodging of internal colonizers. In this connection, and specifically in order to achieve the required programs, I order officials, by virtue of the powers which have been conferred upon me by the Fuehrer:

"Article One. Real estate property ofindividuals deported from Lorraine shall be seized and confiscated for the benefit of the Chief of the Civilian Administration."

I will not cite the second paragraph of Article One, but I will cite Article Two:

"Agricultural properties or forest properties which are seized in consequence of the ordinance concerning enemy properties in Lorraine are confiscated. Insofar as they are needed, they are included in the methodical organization of the region."

Article Three:

"In addition to the cases provided for in Articles One and Two, and according to the needs, other property may be included in the programs for methodical reorganization, provided appropriate compensation is made."

In paragraph 2 of Article Three:.

"The Chief of the Civilian Administration and Services designated by him will decide the importance and the character of the compensation. Any

H0050 - 0074

recourse to the courts on the part of the person involved is forbidden."

Thus the Tribunal can see the processes and the methods which I consider striking, which have been pursued by the German authorities. The first ordinance, the one I cited earlier, spoke only of safeguarding the property of people who had been deported or transported. A second ordinance now speaks of confiscations. That still refers to the notion of enemies of the people and of the Empire.

The third ordinance is still more complete, since it comprises confiscation prescriptions which are quite formal in their character, and which are no longer qualified as "safeguarding" with regard to the property which has become vacated as the result of deportations.

This agricultural colonization of which I have spoken assumed a special importance in Lorraine. On the other hand, it is in Alsace that we find a greater number of cases of measures involving a veritable industrial colonization. These measures consisted in stripping the French industrial enterprises for the benefit of German France. On this subject there is in existence the protest of the French delegation to the Armistice Commission. I submit as documents, three of these protests, Documents Nos. 758, 759 and 760, which are notes under date of -- respectively -- 27 April 1941, 9 May 1941 and 8 April 1943. I believe that it is preferable for me not to read these documents to the Tribunal and that I merely ask the Tribunal to take judicial notice of them, as proof of the existence of these protests, because I fear that such a reading would be a mere repetition to the Tribunal, to whom there has already been explained sufficiently the matter of economic spoliation.

I shall mention, finally, that the Germans carried their audacity to the point of demanding that there should be saved in un-annexed France and transported to Alsace, any profit which belonged to French companies that were thus stripped of their property and infact colonized. I am speaking of profit items of these companies which were located in the other part of France, under the control of the regular shareholders of such companies.

H0050 - 0075

I think it is worthy of notice to consider just one example of such procedure, contained in a very short document, which I submit to you under No. 761. This document appears in the Archives of the French Services for the Armistice Commission, to which it had been sent by the director of the company referred to in the document. It is a paper which is written partly in German and partly -- in the very same document -- in French translation, and is signed by the German Commissioner for French Enterprises, which is called the Alsatian and Lorrainian Society for Electricity. In Alsace this enterprise had been placed in a legal manner under

H0050 - 0076

the administration of this Commissioner. And this Commissioner -- as the document will show -- had come to Paris to try to seize the remainder of the assets of this company. He drafted this document which he signed and which he also caused to be signed by the general director of the French company, This document is of interest as revealing the insolence of German procedure and also their conception of law. I quote now:

"Today the undersigned has given me the order that in the future it is strictly forbidden to me to proceed with legal actions concerning the property of former Alsation and Lerrainian Electrical Society. If I should do anything againstsuch an order, I know that it will be punished.

"Paris, 10 March 1941.
"Signed: Hucka
"F.P. Kommissar
"Signed: Garnier."

Now, this German economic colonization in the areas annexed was to serve as an experiment for the application of similar methods on a broader scale. There will be submitted before the Tribunal in this connection. a document concerning an effort at colonization in the French Department of Ardennes. On this procedure of annexation by the Germans of Alsace and of Lorraine, many other circumstances could be cited, and I could submit many more documents -- even if I were to deal only with the circumstances in the documents which are useful from the point of view of our own Prosecution.

I want to limit myself in order to save the time of the Tribunal and to confirm to the necessities of this trial where so many events have to be brought out. Therefore I have limited myself to the submission of documents, or to examples which are particularly characteristic. I believe that this documentation will enable the Tribunal to appreciate on one hand the criminality of the German undertakings which I have brought to its attention --a criminality which is particularly Characterized in the matter of military conscription, which became a common-law crime involving the penalty of death.

At the same time I believe the Tribunal can appreciate or evaluate-- the serious sufferings that were imposed for five years upon the populace of these French provinces which had been so sorely tried in the course of history. I have submitted a few details which may have seemed ridiculouse, or facetious, but I did so because I thought it was desirable that one could

H0050 - 0077

visulize the opression exercised by the German Administration in all circumstances of life, even of private life. The general opression, which is represented by an enterprise to destroy and annihilate, was exercised in a most complete manner over the Departments and of the countries which were annexed. I believe that the Tribunal prefer that I should leave until tomorrow my comments with respect to the presentation dealings with the Grand Duchy of Luxenbourg. I would like, moreover, to ask the Tribunal

H0050 - 0078

whether they agree with regard to a problem of testimony. I should like to put a witness on the stand, and it is only a little while ago that I gave the Tribunal a letter concerning this request. May I ask to be excused for not having done so earlier? Because there had been some uncertainty on this point. If the Tribunal finds it convenient, I should like to have this witness here at tomorrow's session, Saturday. I state that this witness would be Mr. Koos Vorrink, who is of Dutch nationality. I also wish to say that the Defense may likewise be informed of this, that the question I would like to submit to the witness will deal with certain plans concerning the Germanization in the Netherlands.

THE PRESIDENT: Do you wish to call him tomorrow?

M. FAURE: If that is convenient to the Tribunal.

THE PRESIDENT: Tomorrow will be -

M. FAURE: If it pleases the Tribunal, his testimony could be taken after the recess tomorrow morning.

DR. GUSTAV STEINBAUER (Counsel for Defendant Seyss-Inquart): Mr. President, I do not wish to prolong the proceedings, but I believe it will be in the interest of justice if I ask that the Dutch witness be heard not tomorrow but Monday, on the assumption that Seyss-Inquart who is now ill may be expected back on that date.

THE PRESIDENT: Monsieur Faure, would it be equally convenient to you to call him on Monday?

M. FAURE: Mr. President, the witness would like to go away from Nurnberg fairly promptly. Perhaps I might suggest that he be heard tomorrow and that afterhaving been heard Counsel for Seyss-Inquart would indicate whether he wishes to cross-examine him, and in that case the witness would remain until Monday's session. If, on the other hand, after having heard the questions involved Counsel and considers that there is no need for any cross-examination then there would be no importance in Seyss-Inquart's absence. But I will naturally accept the decision of the Tribunal.

THE PRESIDENT: That seems a very reasonable suggestion.

DR. STEINBAUER: I am agreeable to the suggestion of the French Prosecutor.

H0050 - 0079

THE PRESIDENT: We will adjourn now.

(Whereupon at 1700 hours the hearing of the Tribunal adjourned, to reconvene at 1000 hours on 2 February 1946).